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SOUTH CAROLINA STATE REGISTER

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of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

Notices are documents considered by the agency to have general public interest.
Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.
Proposed Regulations are those regulations pending permanent adoption by an agency.
Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.
Final Regulations have been permanently adopted by the agency and approved by the General Assembly.
Emergency Regulations have been adopted on an emergency basis by the agency.
Executive Orders are actions issued and taken by the Governor.

2019 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations.*

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/11	2/8	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

REPRODUCING OFFICIAL DOCUMENTS

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

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.
Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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4839		SR43-5	Transportation Project Prioritization	5/08/19	Department of Transportation
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4838		SR43-5	Requirements for State Water Pollution Control Revolving Fund Loan Assistance	5/08/19	Department of Health and Envir Control
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4841		SR43-5	Hazardous Waste Management Regulations	5/08/19	Department of Health and Envir Control
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4854		SR43-5	Reactivation of Inactive or Lapsed Licenses; and Code of Ethics	5/08/19	LLR-Board of Occupational Therapy
4822		SR43-5	Administrative Citations and Penalties	5/08/19	LLR-Board of Pharmacy
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4816		SR43-5	Palmetto Fellows Scholarship Program	5/08/19	Commission on Higher Education
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4869		SR43-5	International Mechanical Code	5/08/19	LLR-Building Codes Council
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4852	Board of Long Term Health Care Administrators	Tolled	LLR-Board of Long Term Health Care Administrators
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4821	Real Estate Commission	LLR
4874	Licensing Provisions	LLR- Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialist

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
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4836	Corporate Governance Annual Disclosure Regulation	Regulations and Admin. Procedures	Banking and Insurance
4828	Notices to be Posted	Regulations and Admin. Procedures	Judiciary
4830	Hearing Procedures (Review and Enforcement)	Regulations and Admin. Procedures	Judiciary
4838	Requirements for State Water Pollution Control Revolving Fund Loan Assistance	Regulations and Admin. Procedures	Agriculture and Natural Resources
4832	Accounting and Reporting	Regulations and Admin. Procedures	Education
4841	Hazardous Waste Management Regulations	Regulations and Admin. Procedures	Medical Affairs
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4854	Reactivation of Inactive or Lapsed Licenses; and Code of Ethics	Regulations and Admin. Procedures	Medical Affairs
4822	Administrative Citations and Penalties	Regulations and Admin. Procedures	Medical Affairs
4856	Amend Regulations to Conform to Requirements Established by 2018 Act 226, Physical Therapy Licensure Compact	Regulations and Admin. Procedures	Medical Affairs
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4867	National Electrical Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
4866	International Fuel Gas Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
4860	Additional Regulations Applicable to Specific Properties	Regulations and Admin. Procedures	Fish, Game and Forestry
4857	Education and Experience Requirements for Licensure; and Minor Corrections	Regulations and Admin. Procedures	Labor, Commerce and Industry
4816	Palmetto Fellows Scholarship Program	Regulations and Admin. Procedures	Education
4846	Auctioneers' Commission (Repeal Specific Regulations)	Regulations and Admin. Procedures	Labor, Commerce and Industry
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4834	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Regulations and Admin. Procedures	Fish, Game and Forestry
4868	International Residential Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
4869	International Mechanical Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
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4820	Auctioneers' Commission	Regulations and Admin. Procedures	Labor, Commerce and Industry
4821	Real Estate Commission	Regulations and Admin. Procedures	Labor, Commerce and Industry
4874	Licensing Provisions	Regulations and Admin. Procedures	Labor, Commerce and Industry

Executive Order No. 2019-15

WHEREAS, the State Grand Jury has indicted William Kenney Boone, Sheriff of Florence County, for two counts of Embezzlement of Public Funds, in violation of section 16-13-210 of the South Carolina Code of Laws, as amended, and one count of Misconduct in Office, in violation of the Common Law of South Carolina; and

WHEREAS, William Kenney Boone, as Sheriff of Florence County, South Carolina, is an officer of the State or its political subdivisions; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that upon indictment by a grand jury of any officer of the State or its political subdivisions who has the custody of public or trust funds with embezzlement or the appropriation of public or trust funds to private use, "the Governor shall suspend such officer and appoint one in his stead, until he shall have been acquitted," and "[i]n case of conviction, the position shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, article VI, section 8 of the South Carolina Constitution also provides, in relevant part, that "[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted"; and

WHEREAS, in addition to the foregoing authorities, section 8-1-110 of the South Carolina Code of Laws, as amended, requires that upon indictment of any officer who has the custody of public or trust funds on charges of embezzlement or the appropriation of public or trust funds to private use, "the Governor shall suspend such officer and appoint one in his stead until he shall have been acquitted by the verdict of a jury" and "[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, the aforementioned Indictment includes one or more counts charging William Kenney Boone with "embezzlement or the appropriation of public or trust funds to private use," "a crime involving moral turpitude," or both, for purposes of article VI, section 8 of the South Carolina Constitution; and

WHEREAS, section 23-11-40(C) of the South Carolina Code of Laws, as amended, provides, in pertinent part, that "[i]f any vacancy occurs in the office [of sheriff in any county of this State] at any time and is created by suspension by the Governor upon any sheriff's indictment, the Governor shall appoint some suitable person . . . to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first"; and

WHEREAS, William C. Barnes, of Florence, South Carolina, is a fit and proper person to serve as Sheriff of Florence County.

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 suspend William Kenney Boone from the office of Sheriff of Florence County until such time as he shall be formally acquitted or convicted. Accordingly, pursuant to article VI, section 8 of the South Carolina Constitution and sections 8-1-110 and 23-11-40(C) of the South Carolina Code of Laws, I hereby appoint William C. Barnes to serve as Sheriff of Florence County until William Kenney Boone is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first.

This action in no manner addresses the guilt or innocence of William Kenney Boone and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 24th DAY OF APRIL, 2019.

HENRY MCMASTER
Governor

Executive Order No. 2019-16

WHEREAS, a Grand Jury convened in the Rock Hill Division of the United States District Court for the District of South Carolina has indicted George Alexander Underwood, Sheriff of Chester County, for one count of Conspiracy, in violation of 18 U.S.C. § 371; one count of Deprivation of Rights, in violation of 18 U.S.C. § 242; one count of Tampering, in violation of 18 U.S.C. § 1512(c)(1) and 18 U.S.C. § 2; one count of Falsification of Records in Federal Investigation, in violation of 18 U.S.C. § 1519 and 18 U.S.C.§ 2; and one count of False Statement, in violation of 18 U.S.C. § 1001(a)(2); and

WHEREAS, George Alexander Underwood, as Sheriff of Chester County, South Carolina, is an officer of the State or its political subdivisions; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that "[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted" and "[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, under South Carolina law, moral turpitude "implies something immoral in itself," *State v. Horton*, 271 S.C. 413, 414, 248 S.E.2d 263, 263 (1978), and "involves an act of baseness, vileness, or depravity in the social duties which a man owes to his fellow man or society in general, contrary to the accepted and customary rule of right and duty between man and man," *State v. Major*, 301 S.C. 181, 186, 391 S.E.2d 235, 238 (1990); and

WHEREAS, the aforementioned Indictment includes one or more counts charging George Alexander Underwood with "a crime involving moral turpitude" for purposes of article VI, section 8 of the South Carolina Constitution; and

WHEREAS, section 23-11-40(C) of the South Carolina Code of Laws, as amended, provides, in pertinent part, that "[i]f any vacancy occurs in the office [of sheriff in any county of this State] at any time and is created by suspension by the Governor upon any sheriff's indictment, the Governor shall appoint some suitable person . . . to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first"; and

WHEREAS, Donald Max Dorsey, II of Chester, South Carolina, is a fit and proper person to serve as Sheriff of Chester County.

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 suspend George Alexander Underwood from the office of Sheriff of Chester County until such time as he shall be formally acquitted or convicted. Accordingly, pursuant to article VI, section 8 of the South Carolina

Constitution and section 23-11-40(C) of the South Carolina Code of Laws, I hereby appoint Donald Max Dorsey, II to serve as Sheriff of Chester County until George Alexander Underwood is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first.

This action in no manner addresses the guilt or innocence of George Alexander Underwood and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 7th DAY OF MAY, 2019.

HENRY MCMASTER
Governor

Executive Order No. 2019-17

WHEREAS, on April 19, 2019, a line of strong thunderstorms moved across the State of South Carolina, which produced significant rainfall, damaging winds, and other dangerous weather conditions; and

WHEREAS, as a result of the aforementioned hazardous weather conditions and in accordance with county government office closures, on April 19, 2019, state government offices in Lancaster County closed at 12:00 p.m. and state government offices in Charleston County closed at 2:00 p.m. to ensure the safety of state employees and the general public; and

WHEREAS, pursuant to section 8-11-57 of the South Carolina Code of Laws, the undersigned may authorize leave with pay for affected state employees who were absent from work due to the closure of state offices for hazardous weather conditions.

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 authorize leave with pay for affected state employees who were absent from work as directed on April 19, 2019, due to the foregoing hazardous weather conditions and corresponding early closure of state government offices. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF MAY, 2019.

HENRY MCMASTER
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Bureau of Air Quality Permitting Exemption List (May 24, 2019)

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

In accordance with South Carolina (SC) Regulation 61-62.1, Definitions and General Requirements, Section II(B)(2), the South Carolina Department of Health and Environmental Control (Department or DHEC) has determined that no construction permit shall be required for sources listed herein, unless otherwise specified by Regulation 61-62.70 or any other state or federal requirement.

The Department is placing exempt sources listed in Section II(B)(2) and other sources that have been determined will not interfere with attainment or maintenance of any state or federal standard, on a list of sources to be exempted without further review. This list of exempt sources will be maintained by the Department and periodically published in the South Carolina State Register. Additionally, this list of exempt sources will be maintained on the DHEC website at: https://www.scdhec.gov/environment/air-quality/air-quality-permits. If you have questions or comments, please contact Mareesa Singleton, Air Permitting Division, at (803) 898-4123.

The construction permitting exemptions do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. Whether exempt or not, the emissions will need to be included when determining whether a facility or project is subject to an applicable air regulation such as Prevention of Significant Deterioration (PSD), Title V, or Maximum Achievable Control Technology (MACT) standards. The Department reserves the right to require a construction permit and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of pollutants, location, proximity to residences, and commercial establishments, etc. Sources listed under Section A will not require recordkeeping. Sources listed under Section B will require recordkeeping.

Section A

The following activities/emission sources are considered insignificant and are not required to be documented unless otherwise specified by any State or Federal requirements.

1. Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specified units of equipment.

2. Any consumer product used for the same purposes, and in similar quantities, as would be used in normal consumer use such as janitorial cleaning supplies, office supplies, personal items, maintenance supplies, etc.

3. Recreational, residential, and portable type wood stoves, heaters, or fireplaces, and non-production related smokehouses (used exclusively for smoking food products).

4. Indoor or outdoor kerosene space heaters.

5. Domestic sewage treatment facilities (excluding combustion or incineration equipment, land farms, storage silos for dry material, or grease trap waste handling or treatment facilities).

6. Water heaters which are used solely for domestic purposes.

7. Motor vehicles, aircraft, marine vessels, locomotives, tractors, or other self-propelled vehicles with internal combustion engines and its refueling operations. This exemption only applies to the emissions from the internal combustion engines used to propel such vehicles and the emissions associated with refueling. This exemption does not apply to petroleum distribution facilities.

8. Fugitive particulate emissions from passenger vehicle traffic and routine lawn and grounds keeping operations.

9. Laboratory equipment and compounds used for chemical, biological, or physical analyses such as quality control, environmental monitoring, bench-scale research or studies, training in chemical analysis techniques, and minor research and development (this does not apply to facilities where R&D is the primary objective). This exemption extends to the venting of in-line and in-situ process analysis equipment and other monitoring and sampling equipment.

10. Non-production laboratory equipment used at non-profit health or non-profit educational institutions for chemical or physical analyses, bench scale experimentation or training, or instruction.

11. Vacuum production devices used in laboratory operations.

12. Equipment used for hydraulic or hydrostatic testing.

13. Routine housekeeping or plant upkeep activities such as painting, roofing, paving, including all associated preparation.

14. Brazing, soldering, or welding equipment used for regular maintenance at the facility.

15. Blast cleaning equipment using a suspension of abrasives in water.

16. Batch cold cleaning machines, small maintenance cleaning machines, and parts washers using only nonhalogenated solvents or CFC-113 and not subject to 40 CFR 60 Subpart JJJ (Standards of Performance for Petroleum Dry Cleaners).

17. Flares used solely to indicate danger to the public.

18. Firefighting equipment, “prop fires,” and any other activities or equipment associated with firefighter training. "Prop fires" must be fired on natural gas or propane. See Section B for fire pump exemption determination.

19. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

20. Farm equipment used for soil preparation, livestock handling, crop tending and harvesting and/or other farm related activities such as the application of fungicide, herbicide, pesticide, or fumigants.

21. Equipment on the premises of restaurants, industrial and manufacturing operations, etc. used solely for the purpose of preparing food for immediate human consumption.

22. Reproduction activities, such as blueprint copiers, xerographic copies, and photographic processes, except operation of such units on a commercial basis.

23. Devices used solely for safety such as pressure relief valves, rupture discs, etc., if associated with a permitted emission unit.

24. Pressurized storage tanks containing fluids such as liquid petroleum gas (LPG), liquid natural gas (LNG), natural gas, or inert gases.

25. All petroleum storage tanks less than 3.8 cubic meters (1000 gallons).

26. Water treating systems for non-contact process cooling water or boiler feedwater, and water tanks, reservoirs, or other containers designed to cool, store, or otherwise handle water (including rainwater). See section B for non-contact cooling tower exemption determination.

27. Electric motors emitting only ozone.

28. Refrigeration equipment including Transport Refrigeration Unit (TRU) that does not meet any one of the following criteria:

    i. using an ozone-depleting substance regulated under Title VI of the Clean Air Act and/or 40 CFR Part 82.

    ii. located at a Title V source.

    iii. used as or in conjunction with air pollution control equipment.

29. Construction sand and gravel facilities without crushers, grinders, or dryers. These operations shall be conducted in such a manner that a minimum of particulate matter becomes airborne. In no case shall established ambient air quality standards be exceeded at or beyond the property line. The owner/operator of all such operations shall maintain dust control on the premises and any roadway owned or controlled by the owner/operator by paving or other suitable measures. Oil treatment is prohibited.

30. Shooting ranges that are not part of a permitted source such as a military installation.

Section B.

The following activities/emission sources are exempt from construction permits however, documentation is required as specified below.

Project Emissions:

- Emissions from exempt sources must be included in total project emissions to determine regulatory applicability such as PSD, Title V, or MACT standards.

- Emissions calculations, description of the source, safety data sheets (SDS), throughput records, and any other information necessary to determine qualification for exemptions must be maintained and readily available.

Facility-Wide Emissions:

- Emissions from Section B shall be included in the facility-wide emissions.

Documentation:

- The above information shall be kept on site and made readily available to the Department upon request. The Bureau has developed exempt source log (Form D-0721) and the Title V insignificant activity form (Form D-2944) which may be utilized for keeping exemption details onsite.

- If your facility has an operating permit, this information shall be submitted as indicated in your operating permit.

Some exemptions may require additional information outside what is indicated above such as SC Regulation 61-62.5, Standard No. 8 demonstration (modeling), New Source Performance Standard (NSPS) and MACT requirements, etc. These additional requirements are specified within the exemptions.

For further information on exemptions, see the Bureau of Air Qualify Simplifying Air Permitting Process Exemption Booklet (Exemption Booklet).

1. Stationary or portable combustion sources:

i. Burn virgin fuel and which were constructed prior to February 11, 1971, and which are not located at a facility that meets the definition of a major source as defined in Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

   a. Natural gas boilers.

   b. Oil-fired boilers of 50 x 106 British thermal unit per hour (Btu/hr) rated input capacity or smaller.

   c. Coal-fired boilers of 20 x 106 Btu/hr rated input capacity or smaller.

ii. Boilers and space heaters of less than 1.5 x 106 Btu/hr rated input capacity which burn only virgin liquid fuels or virgin solid fuels.

iii. Boilers and space heaters of less than 10 x 106 Btu/hr rated input capacity which burn only virgin gas fuels.

iv. Temporary replacement boilers of the same size/capacity or smaller (including the same fuel if required) remaining on-site for 12 months or less, used in place of permanent boilers while the permanent boiler is not in operation for maintenance, malfunction, or similar reason and whose emissions do not exceed those of the permanent boiler or differ from the character of the permanent boiler's emissions and whose exhaust point is within close proximity to the permanent boiler's exhaust point. This exemption excludes operation of a temporary boiler while a new, previously unpermitted boiler is under construction.

If a temporary replacement boiler does not meet the definition of a temporary boiler or another exemption per the applicable regulation, it is subject to:

- 40 CFR 60 Subpart Dc if the heat input capacity is greater than or equal to 10 million BTU/hr and construction, reconstruction or modification commenced after June 9, 1989

- 40 CFR 63 Subpart DDDDD if it is located at or part of a major source of hazardous air pollutants (HAP)

- 40 CFR 63 Subpart JJJJJJ if it located at or is part of an area source of HAP. If the boiler meets the definition of gas fired boiler per 40 CFR 63.11237 it is not subject to this Subpart.

If the temporary boiler is subject to a regulation such as those listed above, then a determination that the boiler met the applicable requirements of the regulation must be kept on-site and provided to the Department upon request. The owner/operator shall also keep a record of the startup date and usage periods of the temporary boiler and provide them to the Department upon request.

v. Industrial incinerators with total design capacity of less than 1 x 106 Btu/hr including auxiliary devices used to recondition parts. The Opacity from these sources shall not exceed 20% and the facility shall maintain records documenting the contaminant being removed and possible emissions from the process.

vi. Ovens with integral afterburners used to recondition or clean parts with a combined heat input of less than 10 x 106 Btu/hr, either being electric or combusting natural gas only. The Opacity from these sources shall not exceed 20%, the particulate matter limit shall not exceed 0.5 lbs/106 Btu total heat input, and the facility shall maintain records documenting the contaminant being removed and possible emissions from the process.

2. Internal Combustion Engines:

i. Emergency or portable engines as described below:

a. Engines of less than or equal to 150 kilowatt (kW) rated capacity.

b. Engines of greater than 150 kW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

ii. Temporary or portable engines that meet the definition of “non-road engine” below. However, processes powered by the internal combustion engine shall be evaluated for permitting applicability.

a. Portable or transportable, meaning designed to be and capable of being carried or moved from one location to another and does not remain at a location for more than 12 consecutive months. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period.

iii. Diesel engine driven emergency fire pumps that are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

iv. Internal Combustion engines used to drive compressors or pumps with a mechanical power output of less than 200 horsepower.

v. Oxidation catalyst on generators.

3. Surface Coating:

i. Stand-alone powder coating operations equipped with highly efficient cartridge, cyclone or combination cartridge-cyclone collection systems to separate powder from air, or other type of process equipment designed to effectively control particulate matter and use either:

a. Electric Heated Ovens and apply less than 100 tons per year (tpy) of powder coatings.

b. Natural Gas Heated Ovens with a heat input of less than 10 x 106 Btu/hr and apply less than 98.0 tpy of powder coatings.

HAP containing materials are used, the facility is expected to demonstrate compliance with SC Standard No. 8 using air dispersion modeling. This demonstration must be maintained on-site and submitted with an operating permit renewal request.

ii. Facilities that conduct surface finishing within a building and uses 3 gallons per day or less of non-HAP containing surface finishing materials (such as paints and paint components, other materials mixed with paints prior to application, and cleaning solvents).

iii. Painting, blasting equipment, non-commercial and non-industrial vacuum cleaning systems used for regular maintenance at the facility.

4. Wood Working/Processing:

Good housekeeping practices that minimize fugitive emissions are required for all wood working/processing exemptions.

i. Small woodworking shops that do not conduct surface coating where the woodworking activities (such as sawing, milling, sanding, etc.) are conducted within a building and the total combined maximum processing throughput for all woodworking equipment is less than 0.19 tons/hr.

ii. Sawmill equipment that only processes green wood (wood moisture content >12%), does not conduct fuel combustion operations, and has a maximum throughput capacity of less than 2.45 x 106 board-feet per year.

iii. The following wood working equipment:

a. Hand Sanders.

b. Hand Saws (chain saw, hand drills, etc.).

c. Hand Distressing Tools (chisel, etc.).

d. Equipment used for boring, notching, etc.

5. Storage Vessels:

If an owner/operator is required to have an operating permit, then the owner/operator shall submit a list of storage tanks installed since the last issue or revision to the previous operating permit that qualify for an exemption with any new permit renewal or modification request. If an owner/operator is not required to have an operating permit, then the owner/operator must keep a list of storage tanks that qualify for an exemption on-site and provide the list to the Department upon request.

i. Any size and combination of above ground vertical gasoline storage tanks with a total storage capacity equal to or less than 5,000 gallons and not used for distribution.

ii. Any size and combination of above ground horizontal and vertical gasoline storage tanks with a total storage capacity equal to or less than 3,000 gallons and not used for distribution.

iii. Any size and combination of above ground storage tanks with a total storage capacity equal to or less than 3,218,418 gallons containing virgin or re-refined No.2 Fuel Oil and fuel oils similar in composition to No.2 Fuel Oil.

iv. Any size and combination of above ground storage tanks with a total storage capacity equal to or less than 5,042,000 gallons containing virgin or re-refined No.6 Fuel Oil, fuel oils similar in composition to No.6 Fuel Oil, residual fuel oils and lubricating oils (i.e. motor oil, hydraulic oil).

v. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 2,100,000 gallons containing Jet Kerosene.

vi. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 30,000 gallons containing Jet Naphtha (JP-4).

vii. Any size and combination of above ground horizontal and vertical storage tanks with a total storage capacity equal to or less than 25,000 gallons containing JP-4.

viii. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 84,000 gallons containing only Ethanol.

ix. All storage tanks, excluding those listed in Section A, with a capacity less than 38.7 cubic meters (10,000 gallons) that store organic liquids, excluding those that store a hazardous air pollutant except as an impurity.

6. Others:

i. Sources with a total uncontrolled PTE of less than five (5) tons per year each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; uncontrolled PTE of less than 1000 pounds per month (lbs/month) of any single toxic air pollutant (TAP) and a total uncontrolled emission rate of less than 1000 lbs/month of volatile organic compounds (VOCs) will not require construction permits. Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request.

ii. Sources of VOCs greater than 1000 lbs/month may not require a permit. This determination will take into consideration, but will not be limited to, applicability to state and federal requirements. No waiver will be permissible if federal requirements apply unless otherwise exempt. Emissions calculations and any other information necessary to document qualification for this exemption and the need for permit(s) will be made by the Department on a case-by-case basis. Exempt sources of VOCs may be required to be included in any subsequent construction or operating

permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit.

iii. Modifications to permitted sources that result in an uncontrolled potential emission increase of less than five (5) tons per year each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; uncontrolled PTE of less than 1000 pounds per month (lbs/month) of any single toxic air pollutant (TAP) and a total uncontrolled emission rate of less than 1000 lbs/month of volatile organic compounds (VOCs) may not require permits.

iv. Grain Dryers as described below:

a. Rack dryer of less than 10 x 106 Btu/hr rated input capacity which only burns natural gas as fuel and dry maximum of 100,000 bushels/yr of grains.

b. Column dryer of less than 10 x 106 Btu/hr rated input capacity which only burns natural gas as fuel and dry maximum of 1,400,000 bushels/yr of grains.

v. Laundry dryers, extractors, or tumblers with a maximum throughput of 100,000 lb/month of shop towels processed.

vi. Petroleum dry cleaning facilities with a solvent consumption less than 1,600 gallons per year and not subject to 40 CFR 60 Subpart JJJ

vii. Air strippers used in petroleum underground storage tank (UST) cleanups with well pump rates less than or equal to 23 gallons per minute (gpm) and Benzene concentrations less than the concentration as determined by the following equation and not subject to 40 CFR 63 Subpart 5Gj:

$$C(mg/l) = 0.075/((Q)(5.0E\text{-}04)) \text{ where } Q = \text{well pump rate in gpm.}$$

Air strippers used in petroleum UST cleanups with well pump rates equal to or less than 23 gpm and Benzene concentrations greater than the concentration as determined by the equation are still exempt from permitting but must first submit air dispersion modeling to comply with SC Regulation 61-62.5 Standard No. 8. Documentation of the well pump rate capacity and Benzene concentration must be maintained on-site.

viii. Mobile grinders, remaining on-site for less than 12 months grinding only clean wood. Any wood grinder that replaces a grinder at a location and that is intended to perform the same or similar function as the wood grinder replaced will be included in calculating the12 month time period. All grinding operations shall be conducted in such a manner as to minimize fugitive particulate matter emissions. If any complaints are received, then the grinding operation can be required to stop, and the complaints addressed by the Department.

ix. Welding performed for employee training purposes on equipment that is not part of a permitted source.

x. The processing of whole tires into shreds or specifically sized chips. This does not include the removal of metal or further size reduction by grinding or fine shredding. Good housekeeping practices that minimize fugitive emissions are required.

xi. Sources that only emit Particulate matter (PM) that is not an air toxic or hazardous air pollutant, located within a closed building (a building where minimal PM emissions escape to the outside ambient air through, but not limited to, windows, louvers, vents, and doors), all equipment associated with the process is located inside of the closed building, and do not exhaust directly

through piping, a stack, etc. to the atmosphere. A facility not meeting this criterion may still request an exemption, if sufficient information is provided to verify PM emissions to the ambient atmosphere are below exemptible threshold. The PM emissions to the ambient air from each individual process or emission point must be less than five (5) tons/year. The facility must conduct proper maintenance and good housekeeping practices to aid in the minimization of fugitive emissions to the atmosphere.

xii. Non-contact Cooling Towers that have the potential to emit of any criteria pollutant less than 5 TPY and VOC less than 1,000 lb/month are exempt from construction permit requirement. Cooling towers generally emit PM/PM10/PM2.5 but some facilities might have VOC and TAP emissions. TAP emissions will be exempted on a case by case basis per Standard 8.

xiii. Portable and temporary crushing and/or screening plant with a cumulative rated capacity of all initial crushers of 150 tons per hour or less that is comprised of a crusher that reduce the size of nonmetallic mineral material by means of physical impaction upon the material (including but not limited to jaw, cone, hammermill, or impactor), and any combination of the following: screens that separate material according to size using mesh screens, conveying equipment that transports material from one piece of equipment or location to another location (including but not limited to feeders or belt conveyors), portable diesel engines or electric motors to power process equipment, and fuel storage tanks. These operations must meet all the following criteria:

a. The equipment processes nonmetallic minerals only.

b. Wet suppression is used as needed during operation.

c. The equipment is not being used at the site of an existing facility, in support of the existing facility's primary air-permitted operation.

d. The equipment is portable or transportable and does not reside at any one site for more than 12 consecutive months.

1. Portable plant means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit.

2. A site is one or more contiguous or adjacent properties that are under common control. The amount of time that equipment is kept in storage does not count towards the 12-month residence time requirement. Equipment in storage shall be placed in a separate storage location within the facility and not set up in an operational configuration. Equipment set up at a location ready to operate, shall count towards the 12-month period, even if it is not turned on.

e. The equipment is powered by electricity or diesel engines.

1. The diesel engines are fired on low sulfur (500 ppm or less) diesel.

2. The diesel engines are certified by the manufacturer to meet EPA's nonroad diesel engine emission standards/tiers (40 CFR 89 and 1039).

The temporary crushing and screening operation is subject to all applicable provisions of S.C. Regulation 61-62.5, Standard 4, Sections VIII, IX, X and S.C. Regulation 61-62.6, Section III.

The facility shall keep onsite records of any information necessary to document qualification for this exemption including but not limited to start and end of operation at each site, performance test results, equipment list, amount of fuel purchased, fuel supplier certification of sulfur content of fuel purchased, and any other recordkeeping requirements required by applicable state and federal regulations.

Published Date	Description of Change
November 25, 2011	Original List Published in State Register
July 26, 2013	Reorganized exemption list into categories Modified Exemptions (A)(2)(ii)(a), (B)(3)(i), (D)(1(v – Vi), (D)(3)(ii), (D)(5)(vi), (D)(5)(vii) Added exemptions (A)(1)(vi), (A)(2)(ii)(b), (A)(4), (B)(1)(iii), (B)(2)(i – iii), (B)(3)(iii), (B)(3)(v), (D)(3)(i), (D)(5)(viii –ix) and all exemptions from the SC Regulation 61-62.1, Section II(B)
November 23, 2013	Modified: A(1)(v), B(2) (i ii), B(3)(v), D(5)(iv) Added: A(1)(vi- vii), B(3)(vi vii) Removed: (A)(2)(ii) Renumbered: Changed A(2)(ii)(a) to A(2)(ii), changed A(2)(ii)(a)(1) to A(2)(ii)(a), changed A(2)(ii)(b) to A(2)(iii), C(1)(vi – xi)
July 25, 2014	Updated Exemption List based on the revisions to SC Regulation 61-62.1.
October 23, 2015	Reorganized exemption list into two sections, Section A does not require any documentations to be kept on site, Section B are the ones which will require documentations. Modified exemptions (old exemption number in parentheses): A.3 (D.1.iii), A.18 (D.5.ii), A.26 (A.3), A.28 (B.3.vi), B.1.v (A.1.v), B.1.vii (A.1.vii), B.2.i (A.2.i), B.2.ii (A.2.ii), B.3.i (A.1.i & B.1.ii), B.4.i (B.2.i), B.4.ii (B.2.ii), B.6.xiii (B.3.v), B.6.xiv (A.3) Removed: C.1.ii, C.1.viii Added: A.25, A.27, B.1.viii, B.1.ix, B.2.iv, B.5.ix, B.6.iii, B.6.iii, B.6.ix, B.6.x
February 26, 2016	Changed title of the exemption list to BAQ Permitting Exemption List. Added: A.29 Modified on B.6.iv, B.6.xiii Moved B.6.viii to Section A as A.30 The following was added to 6.xii for clarification: “all equipment associated with the process is located inside of the closed building”
January 27, 2017	Added: B(6)(xiv) Modified A(28) and B(6)(iv) for clarity Updated DHEC logo on header and font to Open Sans.
May 24, 2019	Clarified which sources can be exempt Modified (old exemption number in parentheses if changed): Exemptions – A.7, B.1.iv, B.3.i, B.3.ii, B.4.i, B.4.ii, B.4.iii, B.6.iii, B.6.vi (B.6.v), B.6.vii (B.6.vi), B.6.viii (B.6.vii), B.6.xi, B.6.xiii, B.6.xiv Removed Exemptions: B.1.v, B.1.vi, B.1.vii, B.6.x Moved Exemption B.6.vii to B.3.iii

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 on **May 24, 2019** 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 Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201 at (803) 545-3495.

Affecting Aiken County

***Aiken County Regional Medical Centers, LLC d/b/a Aiken Regional Medical Centers d/b/a Aiken Regional Medical Centers Freestanding Emergency Department**

Construction of a 10,800 sf Free Standing Emergency Department (FSED) in Aiken County at a total project cost of $9,040,305.

Affecting Allendale County

***Amedisys SC, LLC d/b/a Amedisys Home Health of Charleston East**

Establishment of Home Health Agency to serve patients in Allendale County at a total project cost of $14,288.

Affecting Charleston County

***Clara Lesesne d/b/a Assurance Home Health Care**

Establishment of a Home Health Agency in Charleston County at a total project cost of $25,000.

***Roper Hospital, Inc. d/b/a/ Roper Hospital**

Purchase and installation of a second EP Lab at a total project cost of $2,650,525.

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

Addition of 6 General Hospital beds for a total of 288 General Hospital beds at a total project cost of $22,656,000.

Affecting Chester County

Interim HealthCare of the Triad, Inc. d/b/a Interim HealthCare of Rock Hill

Establishment of a Home Health Agency in Chester County at a total project cost of $10,553.

Affecting of Clarendon County

Coastal Health, LLC

Establishment of a Home Health Agency in Clarendon County at a total project cost of $72,000.

Affecting Dillon County

Coastal Health, LLC

Establishment of a Home Health Agency in Dillon County at a total project cost of $72,000.

Affecting Florence County

Coastal Health, LLC

Establishment of a Home Health Agency in Florence County at a total project cost of $72,000.

Affecting Greenville County

***Encompass Health Rehabilitation Hospital of Greenville, LLC d/b/a Encompass Health Rehabilitation Hospital of Greenville**

Establishment of a 40-bed Freestanding Inpatient Rehabilitation Hospital in Greenville County at a total project cost of $32,629,576.

Affecting Horry County
Conway Hospital, Inc. d/b/a Conway Medical Center
Purchase of a da Vinci Xi Robotic Surgical System at a total project cost of $2,114,840.

Conway Hospital, Inc. d/b/a Conway Medical Center
Purchase of a Globus Excelsius GPS Robotic Surgical System at a total project cost of $1,396,813.

Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center
Addition of 32 Acute Care Beds for a total of 232 Acute Care Beds at a total project cost of $14,359,000.

***Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**
Renovation and expansion (7,703 sf) for the addition of one comprehensive cardiac cath lab and one EP lab at a total project cost of $17,375,000.

Affecting Lancaster County
Interim HealthCare of the Triad, Inc. d/b/a Interim HealthCare of Rock Hill
Establishment of a Home Health Agency in Lancaster County at a total project cost of $10,553.

Affecting Lexington County
***Laurel Crest Retirement Community d/b/a Presbyterian Communities of South Carolina-Laurel Crest Retirement Community**
Conversion of 12 Institutional Nursing beds to 12 Non-Institutional Nursing beds at a total project cost of $50,000.

Affecting Marion County
Coastal Health, LLC
Establishment of a Home Health Agency in Marion County at a total project cost of $72,000.

Affecting Marlboro County
***Amedisys Home Health of South Carolina, LLC d/b/a Amedisys Home Health of Conway**
Establishment of a Home Health Agency in Marlboro County at a total project cost of $14,288.

Affecting Sumter County
Prisma Health Tuomey Hospital
Purchase of a da Vinci Xi Surgical Robotic System at a total project cost of $2,080,000.

Affecting Williamsburg County
Coastal Health, LLC
Establishment of a Home Health Agency in Williamsburg County at a total project cost of $72,000.

*** This application was listed as accepted for filing in *South Carolina State Register Vol. 43, Issue 4* on April 26, 2019. Due to a typographical error in the published information, out of an abundance of caution the Department of Health and Environmental Control is re-publishing the corrected application listing to ensure the public has received accurate information regarding this application.**

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 **May 24, 2019**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 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 Aiken County

Aiken County Regional Medical Centers, LLC d/b/a Aiken Regional Medical Centers d/b/a Aiken Regional Medical Centers Freestanding Emergency Department

Construction of a 10,800 sf Free Standing Emergency Department (FSED) in Aiken County at a total project cost of $9,040,305.

Affecting Allendale County

Amedisys SC, LLC d/b/a Amedisys Home Health of Charleston East

Establishment of a Home Health Agency in Allendale County at a total project cost of $14,288.

Affecting Anderson County

AnMed Health

Purchase of an AIRO Intraoperative Mobile CT Scanner at a total project cost of $1,803,793.

Affecting Darlington County

Amedisys Home Health of South Carolina, LLC d/b/a Amedisys Home Health of Conway

Establishment of a Home Health Agency in Darlington County at a total project cost of $14,288.

Affecting Florence County

Amedisys Home Health of South Carolina, LLC d/b/a Amedisys Home Health of Conway

Establishment of a Home Health Agency in Florence County at a total project cost of $14,288.

Affecting Georgetown County

****Georgetown Hospital System d/b/a Tidelands Health d/b/a Tidelands Health Waccamaw Community Hospital**

Transfer of existing Cardiac Catherization service from Tidelands Georgetown Memorial Hospital (TGMH) to Tidelands Waccamaw Community Hospital (TWCH) at a total project cost of $2,423,006.

Affecting Horry County

Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center

Renovation and expansion (7,703 sf) for the addition of one comprehensive cardiac cath lab and one EP lab at a total project cost of $17,375,000

Affecting Lexington County

Laurel Crest Retirement Community d/b/a Presbyterian Communities of South Carolina-Laurel Crest Retirement Community

Conversion of 12 Institutional Nursing beds to 12 Non-Institutional Nursing beds at a total project cost of $50,000.

****Three Rivers Behavioral Health, LLC d/b/a Three Rivers Behavioral Health**

Construction for the addition of 4,852 sf and the addition of 7 psychiatric beds for a total of 112 psychiatric beds at a total project cost of $2,282,498.

Affecting Marlboro County

Amedisys Home Health of South Carolina, LLC d/b/a Amedisys Home Health of Conway

Establishment of a Home Health Agency to serve patients in Marlboro County at a total project cost of $14,288.

** This application was listed as deemed complete in *South Carolina State Register Vol. 43, Issue 4* on April 26, 2019. Due to a typographical error in the published information, out of an abundance of caution the Department of Health and Environmental Control is re-publishing the corrected application listing to ensure the public has received accurate information regarding this application.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE TO REVISE AIR QUALITY STATE IMPLEMENTATION PLAN

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

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide interested persons the opportunity to comment on the Department's proposed revision to the State Implementation Plan (SIP) to meet its obligations to the U.S. Environmental Protection Agency (EPA) under Clean Air Act section 110(a)(2)(D)(i)(I) (*i.e.*, the "good neighbor" provision). This SIP revision specifically addresses good neighbor requirements for ozone under EPA's NO_X SIP Call rule following the repeal of the Clean Air Interstate Rule (CAIR). To be considered, the Department must receive comments by 5:00 p.m. on June 24, 2019, the close of the comment period.

The Department is also providing the public with the opportunity to request a public hearing on the SIP submission. If requested, the Department will hold a public hearing on July 2, 2019, at 10:00 a.m., in Conference Room 2280 of the Sims/Aycock Building, 2600 Bull Street, Columbia, South Carolina. The Department invites the public to attend. However, pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the close of the comment period, 5:00 p.m. on June 24, 2019, the Department will cancel the public hearing. If the Department cancels the public hearing, then the Department will notify the public at least one week prior to the scheduled hearing via the Environmental Public Notices webpage: http://www.scdhec.gov/PublicNotices/. Interested persons may also contact Marie Brown, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via phone at (803) 898-1796 or email at brownmf@dhec.sc.gov for more information, to view a copy of the state's proposed SIP submission, or to find out if the Department will hold the public hearing.

Synopsis:

In S.C. Regulation 61-62.96, the Department repealed CAIR regulations, *Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) Budget Trading Program* (Subparts AA through II, AAA through III, and AAAA through IIII), and reinstated applicable portions of the NO_X SIP Call regulations, *Nitrogen Oxides (NO_X) Budget Program* (Subparts A through I), with amendments as necessary, to maintain state compliance with the federal NO_X SIP Call. The above amendments to S.C. Regulation 61-62.96 were approved during a public hearing conducted by the Board of the South Carolina Department of Health and Environmental Control (Board) on January 3, 2019, and became state effective upon publication in the S.C. *State Register* on January 25, 2019. The Department proposes to remove from the SIP the CAIR program repealed from S.C. Regulation 61-62.96. South Carolina will continue to meet its transport obligation under the NO_X SIP Call through the incorporation of applicable NO_X SIP Call requirements into S.C. Regulation 61-62.96 and the SIP. The Department's removal of CAIR from its regulations is appropriate and consistent with applicable federal law, including the NO_X SIP Call and noninterference requirements under Section 110(l) of the Clean Air Act.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than June 24, 2019 to:

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

The following company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

Class II

DE Tank, LLC.
Attn: John Mahoney
PO Box 1096
Mt. Pleasant, SC 29464

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-410, 44-96-430, 44-96-450, and 44-96-460

Notice of Drafting:

The Department of Health and Environmental Control ("Department") proposes amending R.61-107.6, Solid Waste Management: Solid Waste Processing Facilities. Interested persons may submit comment(s) on the proposed amendment to Juli Blalock, Director of Mining and Solid Waste Management, in the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; blalocje@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on June 24, 2019, the close of the draft comment period.

Synopsis:

The Department proposes amending R.61-107.6, Solid Waste Management: Solid Waste Processing Facilities, to execute statutory requirements established by Act 170 of 2018, Solid Waste Emergency Fund, effective May 3, 2018, and revise existing standards regarding solid waste processing facilities. The proposed amendments will create standards for facilities that process construction and demolition debris, and will update, clarify, and amend standards for facilities that process solid waste that is not construction and demolition debris. Standards may include permit application and registration requirements, consistency with state and local solid waste management plans, design criteria, location requirements, operating criteria, financial assurance requirements, monitoring and reporting requirements, closure and post-closure procedures, personnel training requirements, corrective action requirements, violations and penalties, permit review, permit revocation, and other requirements pursuant to applicable statutory authority. The proposed amendments will also clarify exemptions as allowed or prescribed by S.C. Code Ann. Section 44-96-360(D)(4) and (5).

The Department may also propose further amendments to include updates, corrections, or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement to the text of the regulation.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

Document No. 4881
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:

The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to adopt federal amendments to associated standards promulgated from January 1, 2018, through December 31, 2018. The Department also proposes amending R.61-62.60, Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, and Subpart DDDD, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, to clarify the applicability and scope of United States Environmental Protection Agency (EPA) emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

Pursuant to the Pollution Control Act 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.

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

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 adoption of these federal amendments. South Carolina is already reaping the environmental benefits of the amendments.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review 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.

The Department had a Notice of Drafting published in the February 22, 2019, *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 83 FR 56713, November 14, 2018, and 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.60, Subpart Cf, "Emission Guidelines And Compliance Times For Municipal Solid Waste Landfills":
Subpart Cf is retitled and amended to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

Regulation 61-62.60, Subpart Ja, "Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007":
Subpart Ja, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.60, Subpart DDDD, "Emissions Guidelines And Compliance Times For Commercial And Industrial Solid Waste Incineration Units":
Subpart DDDD is retitled and amended to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

Regulation 61-62.60, Subpart OOOOa, "Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015":
Subpart OOOOa, Table, is amended to incorporate federal revisions at 83 FR 10628, March 12, 2018, by reference.

Regulation 61-62.60, Subpart QQQQ, "Standards of Performance For New Residential Hydronic Heaters And Forced-Air Furnaces":
Subpart QQQQ, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, 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 83 FR 51842, October 15, 2018, and 83 FR 56713, November 14, 2018, by reference.

Regulation 61-62.63, Subpart CC, "National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries":
Subpart CC, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, 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 83 FR 35122, July 25, 2018, and 83 FR 38036, August 3, 2018, by reference.

Regulation 61-62.63, Subpart OOO, "National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins":
Subpart OOO, Table, is amended to incorporate federal revisions at 83 FR 51842, October 15, 2018, by reference.

Regulation 61-62.63, Subpart UUU, "National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units":
Subpart UUU, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.63, Subpart DDDDD, "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Industrial Boilers and Process Heaters":
Subpart DDDDD, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, 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 83 FR 56713, November 14, 2018, by reference.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Anthony Lofton of the Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; by fax at 803-898-4487; or by email at loftonat@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on June 24, 2019, 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 August 8, 2019, 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 R.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 2018. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending the aforementioned regulations to codify federal amendments to these standards promulgated from January 1, 2018, through December 31, 2018. Additionally, the Department proposes amending R.61-62.60, Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, and Subpart DDDD, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

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

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 2018 included revised NSPS rules 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 include revisions to R.61-62.60, Subparts Cf and DDDD, to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law, which requires Department implementation of these Subparts.

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 R.61-62 will provide continued protection of the environment and public health.

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 are 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. 4880
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-1-140

61-23. Control of Anthrax.

Preamble:

The Department promulgated R.61-23 in July of 1960 to prevent and/or control the ownership, possession, or transport of anthrax into or through the state. This regulation is no longer needed, as the federal government established Select Agent Regulations, at Code of Federal Regulations Title 7, Part 331 and Title 9, Part 121,

effective February 7, 2003, setting forth requirements for possession, use, and transfer of select agents and toxins. The Federal Select Agent Program oversees and regulates the possession, use, and transfer of biological agents. The Federal Select Agent Program is jointly comprised of the Centers for Disease Control and Prevention/Division of Select Agents and Toxins, and the Animal and Plant Health Inspection Service/Agriculture Select Agent Services. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this proposed repeal.

The Department had a Notice of Drafting published in the February 22, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Repeal:

R.61-23 is struck in its entirety.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed repeal to Michael Elieff of the Bureau of Public Health Preparedness; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; elieffma@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on June 24, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed repeal during its August 8, 2019, 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/.

Preliminary Fiscal Impact Statement:

There are no anticipated additional costs to the state and its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-23, Control of Anthrax.

Purpose: R.61-23 is no longer needed as the federal government has established federal regulations under the Federal Select Agent Program. The federal program oversees the possession, use and transfer of biological select agents and toxins, which have the potential to pose a severe threat to public, animal, or plant health or to animal or plant products.

Legal Authority: 1976 Code Section 44-1-140.

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 repeal. 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 repeal and any associated information.

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

The Department promulgated R.61-23 in 1960 and has never amended or updated the regulation. This regulation is no longer needed due to the passage of federal regulations governing the possession, use, and transfer of biological select agents and toxins posing a threat to public, animal, or plant health, or to animal or plant products.

DETERMINATION OF COSTS AND BENEFITS:

There are no costs to the state or its political subdivisions associated with the repeal of R.61-23. The benefit of repealing this regulation is removing unnecessary regulatory requirements.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Repealing R.61-23 will not compromise the protection of the environment or public health, as the federal government administers anthrax related protections under the Federal Select Agent Program.

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

There is no anticipated detrimental effect on the environment if this regulation is not repealed. Failure to repeal the regulation would merely result in an unnecessary regulation remaining in effect.

Statement of Rationale:

R.61-23 is no longer needed, as the federal government has established federal regulations under the Federal Select Agent Program. The federal program oversees the possession, use, and transfer of biological select agents and toxins, which have the potential to pose a severe threat to public, animal, or plant health, or to animal or plant products.

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. 4883
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

Preamble:

The Department of Health and Environmental Control proposes adopting the "Revisions to the Definition of Solid Waste Rule," published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This United States Environmental Protection Agency ("EPA") rule revised several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to encourage recycling of hazardous waste. EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion) describe the proposed amendments. These checklists may be found at https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-under-resource-conservation-and-recovery-act. The Department also proposes amending R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention, such as correcting form references, adding language that was erroneously omitted during adoption of previous rules, and other such changes.

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Revise 61-79.260. Table of Contents.

260.2(c). Insert language that was erroneously deleted from previous adoption of federal rule "Hazardous Waste Electronic Manifest Rule."

260.10. Revise to clarify language in the definitions of "EPA Identification Number" and "Facility." Add new definitions "Hazardous secondary material generator," "Intermediate facility," "Land-based unit," "Remanufacturing," and "Transfer facility."

260.30. Amend to clarify and add language on non-waste determinations and variances from classification as a solid waste.

260.33. Amend to clarify language on procedures for variances from classification as a solid waste or, for variances to be classified as a boiler, or for non-waste determinations.

260.34. Add new section on standards and criteria for non-waste determinations.

Revise 61-79.261. Table of Contents.

261.1(c)(4). Amend to add language that further describes a reclaimed material.

261.2(c)(3). Amend to clarify language to help describe the table of definitions of solid waste.

261.2(c)(4). Amend to replace "x" to "*" in accordance with the language used in the Table. Delete a reference in the Table.

261.4(a)(23). Amend to unreserve section and add language describing hazardous secondary material that are not considered solid waste.

261.4(a)(24). Amend to insert language describing hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste.

261.4(a)(25). Amend to insert language describing hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste.

261.4(a)(27). Add new section to describe hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste.

261.6(a)(2). Amend to add "part" before reference section and "of this chapter" after. Amend to un-reserve (iii) and add language to describe recyclable materials that are not subject to certain requirements. Remove (v).

261.6(a)(3). Amend to clarify reference sections.

261.11(c). Amend to revise reference to 261.5 that was previously removed and reserved.

261.30(d). Amend to revise reference to 261.5 that was previously removed and reserved.

261.31(b)(4)(i). Amend to add language to clarify types of light trucks/utility vehicles and complete vehicles.

261.31(b)(4)(ii). Amend to clarify language for required generator records of hazardous wastes from non-specific sources.

261.39(d). Amend to replace "40 CFR part" with "R.61-79."

261 Subparts F and G. Add and reserve.

261 Subpart H. Add new subpart describing the financial requirements for management of excluded hazardous secondary materials.

261 Subpart I. Add new subpart describing the use and management of containers for hazardous secondary materials.

261 Subpart J. Add new subpart describing tank systems for hazardous secondary material.

261 Subpart K to L. Add and reserve new subparts.

261 Subpart M. Add new subpart describing emergency preparedness and response for management of excluded hazardous secondary materials.

261 Subparts N to Z. Add and reserve new subparts.

261 Subpart AA. Add new subpart describing air emission standards for process vents.

261 Subpart BB. Add new subpart describing air emission standards for equipment leaks.

261 Subpart CC. Add new subpart describing air emission standards for tanks and containers.

262.21(b)(8). Revise to clarify information that must be submitted on the registration application to EPA.

262.21(f)(2). Revise to clarify a specification of the paper manifest and continuation sheets.

262.21(h)(3). Revise to replace “decisions” with “decision”.

262.33. Amend to clarify language and delete last sentence.

262.42(a). Amend to add language on exception reporting for generators of greater than 1000kg of acute hazardous waste. Replace “Agency” with “Department”.

262.206(b). Amend to add section title, “Management of Containers in the Laboratory:”.

262.212(e)(3). Amend to revise reference to 261.5 that was previously removed and reserved.

263.20(a)(1). Amend to clarify language on manifest requirements for transporters.

264.72(c). Amend to replace “Regional Administrator” with “Department”.

264.76(a). Amend to replace “Agency” with “Department” and remove the reference to 261.5.

264.147(h)(1). Amend to replace “letter or credit” with “letter of credit”.

264.151(a)(1). Amend to replace “standby” with “trust agreement for a”.

264.151(k). Amend to change reference section 264.147(i) and 265.147(i) to 264.147(h) and 265.147(h).

264.151(l). Amend to change reference section 264.147(h) and 265.147(h) to 264.147(i) and 265.147(i).

264.151 Appendix K. Revise to delete incorrect punctuation.

264.151 Appendix M, Section 8(c). Revise to change “depositary” with “depository”.

264.151 Appendix N, Section 3(c)(1). Amend to replace “or [insert Grantor]” with “of [insert Grantor]”.

264.151 Appendix N, Section 3(e)(3). Amend to replace “loaned to” with “loaned by”.

264.151 Appendix N, Section 8(c). Revise to change “depositary” with “depository”.

264.151 Appendix N, Section 12. Amend to correct punctuation.

264.151 Appendix N, Section 16. Amend to replace “reasonable” with “reasonably”.

264.172. Add section to describe compatibility of waste with containers.

264.193(e)(2)(v)(B). Amend to replace reference section “R.61-79.261.21” to “R.61-79.261.23”.

264.221(e)(2)(i)(B). Amend to add reference section of underground source of drinking water.

265.56(b). Amend to replace “area” with “areal” and clarify language.

265.76(a). Amend to replace “Agency” with “Department”.

265.255(b). Amend to replace “waste piles” with “waste pile units”.

265.314(f)(2). Amend to replace "40 CFR" with "section".

266.100(c)(3). Amend to revise the reference to 261.5 that was previously removed and reserved.

266.108(c) Note. Amend to revise the reference to 261.5 that was previously removed and reserved.

270.14(a). Amend to replace "specification" with "specifications".

270.26(c)(15). Amend to insert "of" after "(a) through (f)".

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on June 24, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 7, 2019, 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/.

Preliminary Fiscal Impact Statement:

The proposed amendments 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 requirements of this regulation.

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: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to realize the benefits of and maintain state consistency with the EPA's January 13, 2015, and May 30, 2018, amendments to 40 CFR 260 through 279, and to correct typographical errors, citation errors, and other errors and omissions that have come to the attention of the Department in R.61-79, Hazardous Waste Management Regulations.

Legal Authority: 1976 Code Sections 44-56-10 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 these proposed amendments. 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:

The Department proposes amending R.61-79 to adopt the EPA's "Revisions to the Definition of Solid Waste Rule," published on January 13, 2015, at 80 FR 1694-1814 and May 20, 2018, at 83 FR 24664-24671. This rule revises several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act ("RCRA"). The purpose of these revisions is to encourage recycling of hazardous waste. The federal rule has made the recycling-related provisions less stringent than previous standards set forth. EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion) describe the proposed amendments. The proposed revisions to the typographical, citation, and other errors and omissions in R.61-79 will correct form references, add language omitted during previous rule adoption, and other changes to conform to federal law.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from these proposed revisions. The EPA estimates in the Federal Register, Volume 80, Number 8, January 13, 2015 on page 1769 that the Definition of Solid Waste Rule will result in cost savings for the regulated community due to increased recycling of hazardous wastes. The proposed revisions to the typographical, citation, and other errors and omissions in R.61-79 will correct form references, add language omitted during previous rule adoption, and other changes to conform to federal law. The proposed amendments will benefit the regulated community by clarifying and updating the regulations and increasing ease of use and will not result in increased costs.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed revision to R.61-79 will provide continued protection of the environment and public health, as indicated above.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions. Rather, the State's authority to implement programs for which the State has been delegated authority, which are beneficial to public health and the environment, would be compromised if these amendments were not adopted in South Carolina.

Statement of Rationale:

R.61-79 contains requirements for hazardous waste management, including identification of waste, standards for generators, transporters, and owners/operators of treatment, storage, and disposal (TSD) facilities, procedures for permits for TSD facilities, investigation and cleanup of hazardous waste, and closure/post-closure requirements. The regulation is promulgated pursuant to the S.C. Hazardous Waste Management Act, Section 44-56-30. As an authorized state program, the regulation must be equivalent to and consistent with the U.S. EPA's regulations under the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et. seq*. The proposed revisions encourage recycling of hazardous waste. The Department also proposes amending R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention, such as correcting form references, adding language that was erroneously omitted during adoption of previous rules, and other such changes.

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. 4882
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-56-30

61-79. Hazardous Waste Management Regulations.

Preamble:

The Department of Health and Environmental Control ("Department") proposes amending R.61-79 to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency ("EPA"). The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent. The "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The "Confidentiality Determinations for Hazardous Waste Export and Import Documents," published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The "Hazardous Waste Electronic Manifest System User Fee; Final Rule," published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of this rule is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

The Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes the amendments for compliance with federal law.

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Revise 61-79.260. Table of Contents.

260.2(b). Amend to clarify where information for claims of business confidentiality are located and clarify language.

260.2(d). Add new language to describe cathode ray tube export documentation in relation to claims of business confidentiality.

260.4. Add language to describe manifest copy submission requirements for certain interstate waste shipments.

260.5. Add language to describe applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

260.31(c)(3). Revise to add punctuation.

260.31(c)(6). Remove item.

260.42(a). Revise to add a reference section and replace “Regional Administrator” with “Department”.

260.42(a)(5). Amend to clarify information required from facilities managing hazardous secondary materials.

260.42(a)(6). Add new language to include new information required from facilities managing hazardous secondary materials.

260.42(a)(7) through (10). Revise to change numerical organization.

260.43(a). Amend to add new requirement phrase on recycling of hazardous secondary materials.

260.43(b). Amend to remove “reserved” and add new language to describe the factors in determining the legitimacy of a specific recycling activity.

261.2(a)(2)(ii). Remove and reserve.

261.39(a)(5)(iv). Amend to remove last sentence.

Revise 61-79.262. Table of Contents.

262.20(a)(1) and (2). Amend to remove the language referencing the appendix to part 262 and 262.34.

262.21(f)(5). Amend to change the required number of manifest and continuation sheet copies.

262.21(f)(6). Amend to re-number the required items.

262.21(f)(7). Amend to add new introductory language on the instructions for the manifest and continuation sheet forms and clarify instructions. Remove reference to appendix to part 262.

262.21(f)(8). Add language to describe a requirement of the manifest and continuation sheet.

262.24(c). Amend to clarify restriction on use of electronic manifests and add exceptions (1) and (2).

262.24(e). Amend to remove language referencing the appendix to part 262.

262.24(g). Remove and reserve.

262.24(h). Add language to describe post-receipt manifest data corrections.

Appendix to Part 262. Remove.

263.20(a)(8). Remove and reserve.

263.20(a)(9). Add language to describe post-receipt manifest data corrections

263.21(a). Amend to clarify where exceptions are located in the regulations.

263.21(b). Amend to add and clarify language related to emergency conditions for hazardous waste facilities.

263.21(c). Add language to describe transporter requirements if hazardous waste is rejected at a designated facility.

Revise 61-79.264. Table of Contents.

264.71(a)(2). Amend to clarify what the owner, operator, or agent must do after receiving a hazardous waste shipment manifest.

264.71(j). Amend to clarify and add language related to the imposition of user fees for electronic manifest use.

264.71(l). Add language to describe post-receipt manifest date corrections in the manifest system.

264.1086(c)(4)(i). Amend to remove language referencing the appendix to part 262.

264.1086(d)(4)(i). Amend to remove language referencing the appendix to part 262.

264 Subpart FF. Add language to describe fees for the electronic hazardous waste manifest program as standards for owners and operators of hazardous waste treatment, storage, and disposal facilities.

Revise 61-79.265. Table of Contents.

265.71(a)(2)(i). Amend to remove "by hand".

265.71(a)(2)(iv). Amend to specify page number on the manifest and change punctuation.

265.71(a)(2)(v). Amend to add language related to paper manifest submission requirements.

265.71(j)(1) and (2). Amend to clarify the imposition of user fees for electronic manifest use.

265.71(l). Add language to describe using the manifest system for post-receipt manifest data corrections

265.1087(c)(4)(i). Amend to remove language referencing the appendix to part 262.

265.1087(d)(4)(i). Amend to remove language referencing the appendix to part 262.

265 Subpart FF. Add language to describe fees for the electronic hazardous waste manifest program as the interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on June 24, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 7, 2019, 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: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to maintain state consistency with the following EPA regulations published in the Federal Register: "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," on May 30, 2018, at 83 FR 24664-24671; "Confidentiality Determinations for Hazardous Waste Export and Import Documents," on December 26, 2017, at 82 FR 60894-60901; and "Hazardous Waste Electronic Manifest System User Fee; Final Rule," on January 3, 2018, at 83 FR 420-462.

Legal Authority: 1976 Code Section 44-56-30.

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:

The Department proposes adopting three final rules published in the Federal Register by the EPA. The "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of RCRA and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The "Confidentiality Determinations for Hazardous Waste Export and Import Documents," published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations from and into the United States by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The "Hazardous Waste Electronic Manifest System User Fee; Final Rule," published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of these rules is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

These amendments are exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the proposed changes are necessary to maintain compliance with federal law.

The EPA estimates in the Federal Register, Volume 80, Number 8, January 13, 2015 on page 1769 that the Definition of Solid Waste Rule will result in cost savings for the regulated community due to increased recycling of hazardous wastes. Likewise, in the Federal Register, Volume 83, Number 2, dated January 3, 2018, page 446, the EPA estimates that the Hazardous Waste Electronic Manifest User Fee Rule will result in cost savings for the regulated community. Finally, in the Federal Register, Volume 82, Number 246, dated December 26, 2017,

page 60898, the EPA estimates that the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule will result in greater efficiencies and cost savings for the regulated community.

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:

The proposed revisions to R.61-79 will provide continued protection of the environment and human health in accordance with updates to federal law.

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

If South Carolina does not adopt these amendments, the EPA's delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the EPA requires South Carolina's regulations be at least as stringent as the federal regulations. Adoption of these proposed revisions will ensure equivalency with federal requirements.

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. 4879
PUBLIC SERVICE COMMISSION
CHAPTER 103
Statutory Authority: 1976 Code Section 58-3-140

103-817.1. E-Filing and E-Service. (New)

Preamble:

The Public Service Commission of South Carolina proposes to add a regulation which provides a process for the Commission to electronically serve documents that are electronically filed with the Commission. The regulation is necessary to provide a documented procedure for parties who utilize the Commission's Docket Management System's (DMS) Electronic Filing (EFile) System. The Notice of Drafting regarding this regulation was published on February 22, 2019, in the *State Register*, *Volume 43, Issue 2*.

Section-by-Section Discussion

103-817.1. This new section, when it becomes effective, covers the procedures for Electronic Service of legal filings submitted to the Commission by external stakeholders. The proposed regulation closely follows the South Carolina Supreme Court's Electronic Filing Policies and Guidelines, specifically Guideline 4. E-Filing and E-Service.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Suite 100, Columbia, South Carolina 29210. Please reference Docket Number 2019-59-A. To be considered, comments must be received no later than 4:45 p.m. on Friday, July 12, 2019.

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Wednesday, August 21, 2019, at 10:00 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

Although the Commission anticipates incurring some costs to configure its Docket Management System (DMS) to electronically serve the documents referenced herein, the Agency expects postage and other related costs to decrease for its internal and external stakeholders when the proposed regulation is implemented. The Commission has obtained a preliminary quote from a computer programmer related to the tasks necessary to configure DMS for successful implementation of this project. At this time, the Commission anticipates that this configuration will cost less than $20,000.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 103-817.1. E-Filing and E-Service.

Purpose: By way of background, in 2012, S.C. Code Ann. Section 58-3-250 was amended for the Commission to serve its final orders or decisions by electronic service, registered or certified mail, upon all parties to a proceeding or their attorneys. Thereafter, Regulation 103-817 was amended so that the Commission can serve certain procedural documents such as Prefile Testimony Letters and Notices by electronic service or by U.S. Mail. The proposed Regulation 103-817.1. provides the Commission with the authority to configure the DMS to electronically serve all the representatives of parties in a docket upon the E-Filing of any motion, pleading, or other paper subsequent to the summons and complaint or other filing initiating a case. Upon the E-Filing of a document other than a paper initiating a docket, the DMS will generate and transmit a Notice of Electronic Filing to the parties' representatives. The purpose of the proposed Regulation is to provide real-time service of filings made at the Commission and more efficient use of resources for the Commission and its external stakeholders. The Commission utilized the South Carolina Supreme Court's Electronic Filing Policies and Guidelines, Guideline 4. E-Filing and E-Service, as a reference in drafting Regulation 103-817.1.

Legal Authority: S.C. Code Ann. Section 58-3-140.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*. Thereafter, the Commission's Project Management Team, including the computer programmer, will plan and execute necessary changes to the DMS.

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

The proposed Regulation 103-817.1. is needed and is reasonable as the Commission will be able to implement a more efficient and real-time process to serve its E-Filed documents upon parties' representatives. Affected persons should receive these electronically served documents more quickly than they would through the U.S. Mail. Another benefit of this proposal is that it will make the process of service more transparent for stakeholders.

DETERMINATION OF COSTS AND BENEFITS:

The costs related to the code configuration of the Commission's DMS is less than $20,000. The benefits will greatly outweigh those costs due to real-time service and transparent records of the Commission's operations,

including service of E-Filed documents, and other external stakeholder benefits such as decreased administrative costs and more timely receipt of filings.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented. The adoption of this Regulation will result in diminished consumption of resources, including photocopying materials and fuel.

Statement of Rationale:

The purpose for Regulation 103-817.1. is to add a process for the Commission to electronically serve documents which are E-Filed with the Commission. The proposed Regulation promotes an improved and more efficient process to serve parties with E-Filed Commission documents. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Document No. 4811
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 37-2-410, 37-2-710, 37-3-403, 37-6-104, 37-6-402, 37-6-403, and 37-6-506

28-55. Employee's Revocable Authorization of a Deduction of Earnings.

Synopsis:

The South Carolina Department of Consumer Affairs proposes to promulgate R.28-55 to provide a framework for the provision of an employee's revocable authorization of a deduction of earnings.

Sections 37-2-410, 37-2-710 and 37-3-403 prohibit the assignment of wages in consumer transactions, but permits an employee borrower to authorize a revocable deduction of earnings. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the Department to promulgate regulations necessary to effectuate the purposes of Title 37.

Notice of Drafting for the proposed regulation was published in the *State Register* on January 26, 2018.

Instructions:

Add Regulation 28-55 as printed below.

Text:

28-55. Employee's Revocable Authorization of a Deduction of Earnings.

A. Definitions: Definitions shall be those contained in S.C. Code Ann. S. 37-1-100 et seq. (1976 as amended).

B. No Assignment of Earnings. A creditor may not take an assignment of earnings of a consumer for payment or as security for payment of a debt arising out of a consumer credit transaction. An assignment of earnings is unenforceable by the creditor, including an assignee, and is revocable by the consumer.

C. Revocable Payroll Deductions: An employee may authorize deductions from his earnings if the authorization is revocable. No deduction of earnings authorizing the debtor's employer to withhold a specific amount from a debtor's wages for payment of a debt arising out of a consumer sale, loan, lease or rental-purchase agreement shall be considered revocable and otherwise in compliance with Title 37 unless the consumer or, if authorized in writing by the consumer, the creditor notifies his or her employer of the payroll authorization in favor of the creditor and the authorization:

(1) Is in a writing:

(a) contained in a document separate from any contract or agreement;

(b) executed at the same time as the underlying transaction;

(c) bearing the debtor's signature and date of signature; and

(d) a completed copy of which is given to the debtor.

(2) Contains the following terms in clear, easily understandable language:

(a) The name and address of the creditor and the borrower;

(b) A statement that by signing the authorization, the consumer is permitting his/ her employer to withhold the consumer's earnings for payment of the debt to the creditor, unless the consumer revokes such authorization;

(c) A description of the debt underlying the authorization, including the type of debt, date of the transaction, the amount of money advanced or paid, the interest and all other fees and charges paid or agreed to be paid by the consumer, the time when the debt, if any, matures and, if the debt is to be paid in installments, the amount and date of payment of each installment;

(d) The total amount to be deducted and number of payments the consumer intends to pay by payroll deduction;

(e) A statement that the failure of the consumer to notify the creditor of a revocation of the earnings deduction does not affect the status of the revocation. The creditor's contact information for receiving notice of revocation, including street address and mailing address or e-mail address, must be provided. If the creditor chooses to provide the consumer a form for use in the consumer notifying the creditor of a revocation, an additional statement describing the purpose of the form and that the use of the form is optional;

(f) The internet address and telephone number for the Department of Consumer Affairs;

(g) The following statements in all caps, bold-face type, in a font larger than any other language on the contract and in immediate proximity to the space reserved for the consumer's signature on the agreement that reads as follows:

(i) 'THIS PAYROLL AUTHORIZATION IS NOT REQUIRED TO GET CREDIT OR TO GET CERTAIN TERMS OF CREDIT.'

(ii) 'YOU MAY REVOKE THIS AUTHORIZATION WITHOUT PENALTY, FOR ANY REASON AND AT ANYTIME BY CONTACTING YOUR EMPLOYER. IF REVOKED, YOU NEED TO MAKE FUTURE PAYMENTS DIRECTLY TO US.'

(iii) 'IF YOU CHOOSE NOT TO NOTIFY US THAT YOU REVOKED YOUR AUTHORIZATION AND PAYMENT IS NOT RECEIVED WHEN DUE, YOU GIVE US PERMISSION TO CONTACT YOUR EMPLOYER TO FIND OUT WHY THE PAYMENT WAS NOT MADE.'

D. Prohibitions: Regardless of when made, an authorization for the deduction of earnings is void if a creditor:

(1) Fails to comply with the provisions of this regulation,

(2) Requires the authorization to obtain credit or certain terms of credit,

(3) Initiates, or attempts to initiate contact with the consumer's employer pertaining to the authorization, except that a creditor may initiate contact with the employer:

(a) after the debtor signs the payroll authorization to confirm the employer received notice of the authorization, intends to deduct the specified amount from the debtor's earnings and has the necessary information to facilitate the payments. Any communication between the creditor and employer regarding the authorization shall be limited to confirmation of the employer's intent to honor the employee's request for a payroll deduction, the amount and due date for each installment and the form for use in the consumer notifying the creditor of a revocation, if applicable; and

(b) if the creditor fails to receive timely payment pursuant to the authorization and has not received notice of revocation from the consumer, to determine the reason the payment was not made. This does not apply if the last payment received by the creditor was made by the consumer directly by a method other than payroll deduction; or

(4) Attempts to utilize an authorization to solely collect payments due upon a consumer's default, or otherwise deduct earnings in an unauthorized manner similar to wage garnishment or wage assignment.

E. Nothing in this regulation affects an employer's right to decline the employee's request for a payroll deduction.

Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately $0.

Statement of Rationale:

Sections 37-2-410, 37-2-710 and 37-3-403 prohibit an assignment of earnings in consumer transactions but permits an employee to request a revocable, authorized deduction of earnings. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the department to promulgate regulations necessary for the implementation of the South Carolina Consumer Protection Code. It is necessary to promulgate a regulation to clarify when an employee's authorization would be deemed revocable, thus compliant with the South Carolina Consumer Protection Code.

Document No. 4813
SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
CHAPTER 37
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-025. Denial of Certification for Misconduct.

Synopsis:

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10 et seq. The proposed regulation will define misconduct for the denial of certification for misconduct.

Notice of Drafting for the proposed amendments was published in the *State Register* on March 23, 2018.

Instructions:

Replace R.37-025 as shown below.

Text:

37-025. Denial of Certification for Misconduct.

A. The Council may deny certification based on evidence satisfactory to the Council that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

1. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;
2. Unlawful use of a controlled substance;
3. The repeated use of excessive force in dealing with the public and/or prisoners;
4. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
5. Physical or psychological abuses of members of the public and/or prisoners;
6. Misrepresentation of employment-related information;
7. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a law enforcement officer, a law enforcement agency, or representative, except when required by departmental policy or by the laws of this State during the course of an investigation;
8. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a court of competent jurisdiction, or their staff members, whether under oath or not;
9. To willfully make false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State.

B. In considering whether to deny certification based on misconduct, the Council may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

Fiscal Impact Statement:

There will be no fiscal impact from this change.

Statement of Rationale:

Revisions to these regulations are necessary to make the definitions of misconduct for denial of certification for misconduct.

Document No. 4812
SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
CHAPTER 37
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-026. Withdrawal of Certification of Law Enforcement Officers.

Synopsis:

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10 et seq. The proposed regulation will define misconduct for the denial of certification for misconduct.

Notice of Drafting for the proposed amendments was published in the *State Register* on March 23, 2018.

Instructions:

Replace R.37-026 as shown below.

Text:

37-026. Withdrawal of Certification of Law Enforcement Officers.

A. A law enforcement officer, certified pursuant to the provisions of R.37-005 and R.37-006, shall have his or her certification as a law enforcement officer withdrawn by the Council upon the occurrence of any one or more of the following events:

1. The officer is found to have falsified any application for certification and training based upon which the officer was admitted for training.

2. The officer is found to be ineligible for service as a law enforcement officer because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility is not discovered until after the officer's initial certification.

3. The officer is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the officer from obtainment of certification as provided for in R.37-005 and R.37-006.

4. Evidence satisfactory to the Council that the officer has engaged in misconduct. For purposes of this section, misconduct means:

a. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude;

b. Unlawful use of a controlled substance;

c. The repeated use of excessive force in dealing with the public and/or prisoners;

d. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;

e. Physical or psychological abuses of members of the public and/or prisoners;

f. Misrepresentation of employment-related information;

g. Violations of criminal law resulting from administrative inquiries;

h. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a law enforcement officer, a law enforcement agency, or representative, except when required by departmental policy or by the laws of this State during the course of an investigation;

i. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a court of competent jurisdiction, or their staff members, whether under oath or not;

j. To willfully make false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State.

Provided however that in considering whether to withdraw certification based on misconduct, the Council may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

B. The officer's certification expires due to the officer's failure to meet re-certification requirements as set out in R.37-010.

Fiscal Impact Statement:

There will be no fiscal impact from this change.

Statement of Rationale:

Revisions to these regulations are necessary to make the definitions of misconduct for the withdrawal of certification of law enforcement officers.

Document No. 4832
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 30-4-10 et seq., 59-13-60, 59-13-70, 59-13-80, 59-13-90, 59-13-140, 59-17-100, 59-20-10 et seq., 59-21-510 et seq., 59-25-130, 59-25-140, and 59-33-10 et seq.

43-172. Accounting and Reporting.

Synopsis:

State Board of Education Regulation 43-172 governs the requirements for school districts, county boards of education, and career and technical education centers to obtain an annual audit of financial records by a certified or licensed public accountant. Amendments to Regulation 43-172 will revise the due date of the annual audit report from November 15 to December 1 to coincide with the deadline listed in the SC Code of Law 59-17-100. The amendment will also remove the reference to the "Office of School District Auditing" and replace it with the "Department" and revise the term "occupational education center" to "career and technical education center" to coincide with current terms. The amendment will also update the Financial Resources to remove the reference to the Staff Accountability Manual which does not exist and replace with the Student Accountability Manual.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 24, 2018.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-172. Accounting and Reporting.

I. Pupil Accounting

According to Section 4, paragraph (1)(c) of the South Carolina Education Finance Act of 1977, each pupil in the state shall be counted in only one of the pupil classifications and must meet all qualifications both general and specific, before the pupil can be classified and claimed in a public school.

A. General Qualifications Criteria:

1. A pupil will be counted in membership on the first day of entrance in an instructional program either through original entry, reentry, or transfer.

2. Membership is defined as the number of pupils present plus the number of pupils absent.

3. Cumulative average daily membership is the aggregate number of days in membership divided by the total number of days the school is in session.

4. A pupil shall maintain membership in the appropriate instructional program for the minimum length of the school day.

5. To be eligible for membership a pupil must not be more than twenty-one years old (or in a graduating class and becomes twenty-one before graduation) before September 1 of the current school year.

6. A pupil shall be dropped from membership on the day when the number of unlawful days absent exceeds ten consecutive days or when the pupil leaves school because of transfer, death, expulsion, graduation, legal withdrawal, or for any other reason. Notwithstanding any other provision, students with disabilities who have been expelled and continue to receive educational services pursuant to Regulation 43-279 (Section V, Part D) shall not be dropped from membership.

7. An unlawful absence is defined in State Board of Education Regulation 43-274.

8. A class period is defined as a minimum of fifty minutes, or an accumulation of the equivalency of 120 hours required for a Carnegie Unit of Credit.

9. A pupil whose program of instruction meets the criteria for more than one category shall be classified in the highest weighted category.

B. Specific Qualifications Criteria:

1. A pupil shall be five years old or older on or before September 1 of the current school year to be admitted in a kindergarten program.

2. Specific qualifications for grades 1–12

a. A pupil shall be six years old or older on or before September 1 of the current school year to be admitted to the first grade.

b. A pupil in an ungraded class shall be classified in the grade level corresponding to the pupil's age.

c. A pupil shall maintain membership in a minimum of 200 minutes of daily instruction or its equivalency for an annual accumulation of 36,000 minutes.

3. Specific qualifications criteria for exceptional programs

a. To be counted in membership in an exceptional program, a pupil must be at least five (5) years of age by September 1 of the current school year, except for hearing disabled or visually disabled pupils who must be at least four (4) years of age by September 1 of the current school year.

b. To be counted in membership in a disabilities program, a pupil must be placed in a program in specific compliance with Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Disabled.

c. A pupil must maintain membership in a program designed for the appropriate disability and meet the time constraints for regular programs consistent with the provisions of the Defined Program.

d. An itinerant program is one where specialized instruction, materials, and/or equipment is delivered within the framework of a regular education setting. A resource room program is one in which mildly disabled pupils are enrolled for a portion of their education program and receive direct specialized instruction. A self-contained program is one in which the pupil receives full delivery of special education from one teacher. A homebound/hospitalized program is one in which the incapacitated pupil receives his educational program in accordance with the State Board of Education regulations.

e. Minimum number of minutes of instructional time per week or its equivalent for disabled pupils in resource, itinerant, self-contained and homebound models approved by the Department are as follows:

		Minutes of Instructional Time Per Week or Its Equivalent
(1)	Educable Mentally Disabled	250
(2)	Learning Disabilities	250
(3)	Orthopedically Disabled	250
(4)	Emotionally Disabled	250
(5)	Visually Disabled	250
(6)	Hearing Disabled	250
(7)	Homebound	250
(8)	Speech Disabilities	250
(9)	Trainable Mentally Disabled	[FN*]

[FN*] Must meet time constraints consistent with the provisions of the Defined Program.

4. Specific qualifications criteria for career and technical education

a. A pupil shall be assigned in grades 9–12 and maintain membership in at least 250 minutes of instructional time per week or its equivalent in an appropriate career and technical education program approved by the Department.

b. A pupil shall maintain membership in a minimum of 200 minutes of daily instructional time or its equivalent.

II. Audits

An annual audit of all financial records shall be made by a certified or licensed public accountant selected by the district, county board of education, or career and technical education center. A copy of the audit in the format prescribed by the Department shall be filed with the Department, by December 1 following the close of the fiscal year.

III. Accountability

Financial Resources are to be allocated, expended, and accounted for in accordance with accounting practices specified in the Financial Accounting Handbook, Funding Manual, Pupil Accounting Manual, and the Student Accountability Manual.

Fiscal Impact Statement:

None.

Statement of Rationale:

This regulation is based on SC Code of Law Section 59-17-100, which directs local education entities to submit their annual audit report to the Department by December 1, after the close of the fiscal year. The regulation is also for the counting of pupil classifications in the state.

Document No. 4819
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-21-540(11), 59-33-20(c), and 59-33-30

43-241. Medical Homebound Instruction.

Synopsis:

The State Board of Education proposes to amend R.43-241, Medical Homebound Instruction, to add "nurse practitioner" and "physician assistant" as additional providers who may sign forms recommending Homebound Instruction.

Notice of Drafting for the proposed amendment to the regulation was published in the *State Register* on April 27, 2018.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-241. Medical Homebound Instruction.

I. Students who cannot attend public school because of illness, accident, or pregnancy, even with the aid of transportation, are eligible for medical homebound or hospitalized instruction.

A. A physician, nurse practitioner, in compliance with the requirements the Nurse Practice Act, or physician assistant in compliance with the requirements of Article 7 of the Medical Practice Act, must certify that the student is unable to attend school but may profit from instruction given in the home or hospital.

B. Any student participating in a program of medical homebound instruction or hospitalized instruction must be approved by the district superintendent or his or her designee on standardized forms provided by the State Department of Education (Department).

C. A South Carolina school district may count in membership a pupil who is compelled to reside outside the State to receive medical services provided the teacher is certificated by the Department in the state where services are rendered.

D. All approved forms must be maintained by the district for documentation.

II. A student is eligible for medical homebound instruction (1) on the day following his or her last day of school attendance or (2) on the first day of the regular nine-month academic year of the school in which he or she is enrolled and would otherwise be in attendance. The student remains eligible (1) until the day before he or she returns to school or (2) until the last day of the regular academic year in the school year he or she would normally be enrolled, whichever occurs first.

III. The Department shall fund a maximum of five periods per week of medical homebound instruction pursuant to the Education Finance Act (EFA).

A. A day of instruction must be based on the student's individual need but may be no less than fifty minutes to qualify for state funding.

B. There is no limit to the amount of instruction that may be provided with funds other than state funds.

C. If more instruction is needed, the school district must provide the additional funds.

IV. Should an approved student not be provided the medical homebound instruction that he or she is entitled to receive, the student is eligible to have the medical homebound instruction made up by the district.

A. This make up may occur during the student's remaining eligibility for medical homebound instruction or may occur after the student returns to school provided the make-up periods are not during the regular school day.

B. State funding for medical homebound instruction is available until the last day of the regular school year. If the school district delays the start of services for any reason, the student is still entitled to the instructional services, and the school district must make up the missed instructional periods even if the regular school year has ended and services are provided without the benefit of state funding.

V. All teachers providing medical homebound instruction to students domiciled in South Carolina must hold a valid South Carolina teacher's certificate.

A. The teacher shall teach the medical homebound student or students in a room especially set aside for the period of instruction.

B. Medical homebound teachers are required to keep a weekly record of teaching services provided.

Fiscal Impact Statement:

No additional state funding is requested. The Department estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-241.

Statement of Rationale:

School districts are required to collect numerous student related medical documents for a variety of reasons. It is customary that students are treated by other providers in addition to physicians, and the Homebound regulation needs to be updated to allow for these providers to sign as is customary with other medical school forms.

Document No. 4833
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 56-5-180, 56-5-190, 56-5-195, 56-5-196, 59-5-60, 59-67-10, 59-67-20, 59-67-30, 59-67-40, 59-67-160, 59-67-240, 59-67-410, 59-67-470, 59-67-520, 59-67-535, and 59-67-570

43-80. Operation of Public Pupil Transportation Services.

Synopsis:

South Carolina Code of Laws Section 59-67-470 (Bus drivers; selection; eligibility, training and certificates) establishes criteria for selecting and employing school bus drivers. It also authorizes the State Board of Education to provide a rigid training and testing program for prospective drivers and requires that successful candidates be issued school bus driver certificates. Regulation 43-80, Section N further details the training/testing processes and establishes different classifications of school bus driver certificates.

The change to the regulation is proposed to allow greater flexibility in certifying drivers to operate school buses.

Changes will also be made to unify the titling of each certification category and their respective sub-classifications; to clarify the vehicles which may be operated under each certification category; to reflect that all certification categories have multiple sub-classifications; to renumber the regulation to reflect the addition of a sub-classification; and to remove a reference and timeline for changing from a single-category certification program to a multi-category certification program.

Changes will be made to the Section T, Special Transportation Service section to remove all references to boat to bring this regulation in line with Section 59-67-535.

Clean up will be done on this regulation to renumber sections and subsections; change the terminology from pupil(s) and child(ren) to student(s); and to correct minor errors in grammar, syntax, and punctuation to bring this regulation in line with other agency regulations.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 24, 2018.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-80. Operation of Public Student Transportation Services.

I. The school district board of trustees (Board of Trustees) shall be responsible to the State Board of Education (SBE) for the supervision of the school transportation program in the district. This shall include the recruitment of school bus drivers, employment and dismissal of school bus drivers, supervision of school bus drivers and the students being transported, proposed routing of buses, accurate transportation records as to mileage, number of students transported pursuant to Section 59-67-100, driver's time reports, school bus safety, and enforcing all other transportation regulations. The recruitment and employment of school bus drivers and supervisory personnel is the responsibility of the Board of Trustees. The transportation of students is an integral and essential part of the school program, and teachers and administrative personnel shall be assigned to school bus duties in the interest of the transportation program.

II. Transportation on regular school bus routes is authorized for public school students. Public school students include three-year to five-year old students who are disabled, kindergarten students in half-day programs, and the K–12 regularly enrolled students during the 180-day school year. Three- and four-year old students attending public school-sponsored kindergarten or child development programs must be permitted to ride state-owned buses to the extent funds are made available by the General Assembly. Special programs operated and/or sponsored by the governing body of the school district may use school buses as long as transportation services are paid for by the school district at no cost to the State and do not disrupt school bus maintenance servicing or regular school bus routes. A special program is any education or other program sponsored by the school district that is not a program required by State statute or regulation to be operated by the school district. A student who is disabled shall be accompanied by an aide if the student's Individual Education Program so specifies.

Assignment of buses for new routes will be made on the basis of actual need. Justification must be submitted showing that all buses presently assigned to the district or area are being used to the maximum before additional equipment can be assigned.

To enhance school bus routing effectiveness, kindergarten students shall be assigned to morning or afternoon sessions on the basis of where they live.

III. The State shall not be required to operate buses for high school, junior high school, middle school, and elementary school students separately. Approval of separate transportation will be given only when such transportation can be accomplished with the same number of buses and approximately the same mileage. The schedule of work and the opening and closing hours for all schools served by the same buses must be arranged so as to facilitate a maximum amount of school work and at the same time permit the operation of a satisfactory and economical transportation program. School districts shall stagger school opening times when feasible to maximize the use of the school bus transportation system.

IV. Five-year-old through grade 12 public school students who have temporary physical handicaps or have a chronic disorder of lengthy duration may have their parents or guardians apply for these students to receive special school bus transportation services. The application process is as follows:

A. Secure appropriate forms for the District Superintendent.

B. Have the student examined by a licensed medical doctor and receive a written statement from the licensed medical doctor to the effect that without special school bus transportation service, unusual hardship will be experienced by the student in walking the required distance to the regular route.

C. Submit the statement from the licensed medical doctor to the District Superintendent for approval.

D. The District Superintendent shall submit the health statement with a Request For Special School Bus Transportation Service approval to the local representative of the South Carolina Department of Education (Department). Approval by the Department shall be required before a change in a school bus route for this purpose becomes official.

E. Approval for such a change in school bus routes shall terminate at the time the student no longer qualifies for special school bus transportation service, or when the student for whom the service was intended has moved residences.

V. Each school district shall prepare route descriptions and maps in accordance with laws and regulations and, upon approval of the Board of Trustees, shall submit the route descriptions and maps to the designated representative of the Department by October 15th of each year. Proposed changes in routes after October 15th must be approved by the designated representative of the Department before a change is made. In emergencies or unusual situations, districts may make route changes in keeping with laws and regulations with approval by telephone or e-mail from the designated representative of the Department. Such approval must then be submitted in writing, with written approval received from the designated representative of the Department. Changes made without notification to and approval by the designated representative of the Department will result in the district

being charged the prevailing rate per mile for permit trips. The amount for unauthorized mileage will be deducted from the district's transportation funding.

Written approval or disapproval of all routes will be provided by the Department no later than November 15th. A period of two weeks will be given to the district for corrections to be made after a notice of disapproval. After this two week period, if corrections have not been made, any routes not approved by the Department will be operated at the expense of the district.

VI. School bus stops on each route shall be established at safe locations no closer than two-tenths of a mile apart. Stops shall have a clear visibility of 600 feet in each direction or a "School Bus Stop Ahead" sign shall be located at a point 600 feet in each direction of the designated stop. During periods of inclement weather, buses may be allowed to stop on the established route at safe points nearest the house of each student; however, buses shall not be permitted to leave regular routes. Stops and turn-abouts shall not be made on blind curves, steep grades, or near the crest of hills or in any other unsafe traffic environment.

VII. Students shall not be transported from one district or attendance area to another when an appropriate school is provided within the district or attendance area. When an intra-district Choice Program is approved by an appropriate Board of Trustees, students may be transported across attendance boundaries; however, this transportation shall be provided in the most productive and cost efficient manner and shall not violate the continuous riding time restrictions provided in statute.

VIII. No school bus shall stop for the purpose of picking up or discharging any non-handicapped school student living within one and one-half miles of the school, unless under the application provisions of Section 59-67-420 the student qualifies for transportation under one of the following conditions.

A. Where no additional state-owned/leased school buses are required, districts may choose to transport students, who reside along the established route, to and from school on the established route within one and one-half miles distance of the school if there are vacant seats on the school bus. When transporting students who reside within the one and one-half mile distance of the school, other provisions of law and regulations must be maintained, and the school district must assume any additional operational expense.

B. When the Board of Trustees of any school district desires to transport students residing within one and one-half miles distance of the school, state-owned/leased buses may be used for this purpose provided the Board of Trustees pay to the Department an amount per mile to be determined annually by the Department. The per-mile amount should cover at a minimum all costs associated with the provision of the equipment used to provide the service. The methodology to determine this minimum cost shall be approved by the SBE. The driver salary and benefits shall be paid directly by the school district. No additional state-owned/leased buses will be assigned for transportation of students living within one and one-half miles of the school.

IX. Regularly assigned buses may be used to transport students to vocational classes upon approval of the Department, provided regular buses are the most cost effective method of transportation. If a regular assigned bus is not the most cost effective method, the District shall examine less costly transportation options. The Department shall reimburse the district for the least expensive alternative transportation mode. When buses are used, the class schedules shall be arranged so that buses can complete their regular morning and afternoon routes. As with all school bus transportation services, the Board of Trustees shall be responsible for providing adequate supervision on the bus at all times.

X. Buses shall be removed from routes when, in the opinion of the Department, abuse or vandalism becomes so excessive that it interferes with the maintenance and operation of buses for the regular school program.

XI. The Board of Trustees must correct problems in the routing, supervision and/or use of any school bus under its jurisdiction. If problems are not corrected after official notification by the designated representative of the Department, the school district shall assume all financial responsibility and all liability associated with operating the buses.

XII. Buses shall be left at the designated school bus parking area during the school day. Exceptions:

A. With prior written approval by the Department, drivers of buses may be transported by school bus pool to their home mid-day provided it can be justified economically. The Department, for economic justification purposes, will allow a pool bus to travel a distance of no more than five miles per driver transported one way per day. Pooling shall be defined as the transportation of more than one bus driver to home or to work on a single bus. In no case shall there be an adverse economic impact upon the bus maintenance services.

B. Drivers of buses may drive their assigned bus home mid-day when the one-way mileage does not exceed five miles. Any additional mileage shall be at the district's expense.

C. Buses may be parked at another school when there will be no adverse economic impact upon bus maintenance services.

D. At the end of the school day, drivers may drive their vehicle back to their home or a designated public parking facility only when it can be proven that to do so can be justified economically.

The exceptions for use of buses and the related economic justifications shall be part of the route and schedule plan submitted by the local school district to the Department.

In exceptions A. and C. above, the request for approval shall include a plan to insure the proper servicing and maintenance of the bus.

The school district shall provide for safe loading and unloading of students and a suitable concrete or asphalt-paved area for the parking and servicing of buses during the school hours. The parking and service area shall be located and designed to insure that vehicular traffic, students, or unauthorized personnel are not in or around parked buses during the school day and shall be in compliance with all safety and fire regulations.

XIII. Each school district is required to keep each school bus in a clean and sanitary condition. Each district is responsible for all excessive driver and passenger abuse to the buses. Any school district using a bus on a trip not authorized by the Department shall assume all financial responsibility and liability.

The Board of Trustees shall designate, to the Department, a school official to see that proper care is taken of the buses; to see that the buses shall not be abused; to see that drivers make required reports promptly; to assist in the investigation and collection of the cost for damages to state-owned/leased equipment; and to aid in any proceedings, either civil or criminal.

XIV. The school bus driver certification program is established by the SBE and administered by the Department to qualify individuals to drive one or more of the numerous types of school buses. A school bus is a vehicle as defined and described in Sections 56-5-190, 56-5-195, 56-5-2770, 59-67-10, 59-67-30, and 59-67-108 of the South Carolina Code. The school bus definition designates a Full-functional School Bus (FFSB) vehicle as a school bus vehicle that is equipped with all signage and lamps to meet the requirements of Section 56-5-2770 and meets the National School Bus chrome yellow color requirements in Section 59-67-30, thus allowing it to control traffic when loading and unloading students. The school bus definition also designates the Multi-functional School Activity Bus (MFSAB) vehicle as a school bus vehicle that cannot control traffic because it lacks either signage or lamp requirements of Section 56-5-2770 or does not meet the National School Bus chrome yellow color requirements in Section 59-67-30. The vehicle's manufacturer passenger capacity rating has no effect on the vehicle's status as a school bus.

An individual driving a school bus, as defined in Section 59-67-10, must have a valid Department school bus driver's certificate in his or her possession when transporting or intending to transport preprimary, primary, or secondary public school students to or from school and school related activities. This includes transporting public school students to and from childcare or related activities.

Based on Section 59-67-40 and 59-67-108 of the South Carolina Code, an individual operating a FFSB equipped with enabled traffic control devices meeting the signage and lamp requirements of Section 56-5-2770 and meeting the color requirements of 59-67-30 for a private school must receive training in the use of these traffic control devices. Section 59-67-108 requires the Department to establish an appropriate level of certification for these individuals. An individual operating a bus, which does not meet the signage and lamp requirements of Section 56-5-2770 or meet the color requirements of 59-67-30 for a private school would not be required to receive training or the Department certification.

The SBE directs the Department to establish a school bus driver certification program that provides for the following three (3) separate and distinct school bus driver's certificate categories.

Certificate A—Authorizes an individual to operate school buses owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate B—Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate C—Authorizes an individual to only operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Each certificate category is divided into two sub classifications: authorization to operate commercial vehicles and authorization to operate non-commercial vehicles. The non-commercial classification is established to certify individuals to only operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV).

In order to obtain any one of the Department School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by this regulation and the related tests of the Department and SCDMV. Certificates are only issued by the Department.

The Department School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category.

The common requirements which all drivers must satisfy for issuance and renewal of a Department School Bus Driver's Certificate are as follows.

A. A driver candidate must:

1. not have more than four (4) current points against his or her driving record with the SCDMV;
2. not have more than four (4) points against his or her driving record with the SCDMV within the previous twelve (12) months;
3. not have had his or her driver's license suspended for a moving violation within the past twelve (12) months.

B. Driver candidates shall successfully complete the Department's School Bus Driver Classroom Training Program.

C. Driver candidates and school bus drivers shall have a physical examination which meets the requirements of Section 59-67-160 of the Code of Laws of South Carolina.

D. Driver candidates shall successfully pass the Department's School Bus Driver Physical Performance Tests.

E. For initial certificate issuance, driver candidates shall successfully meet the minimum number of training hours as set forth by the Federal Motor Carrier Safety Administration (FMCSA) or the Department, depending on the license and certificate type the candidate holds or seeks.

F. Driver candidates shall pass the Department's Behind-the-Wheel Road Skills Examination.

G. Drivers and driver candidates must be covered by a substance abuse testing program which complies with the USDOT Regulation, Title 49, Chapter III, Section 382, et al., and Federal Highway Administration for testing drivers of commercial vehicles.

H. The driver candidate must satisfy common requirement items C. through G. within one hundred and eighty (180) calendar days after successfully completing item B.

In addition to common requirements, A. through H., certificate categories have unique requirements which a driver must satisfy before issuance and/or renewal of the Department's School Bus Driver's Certificate.

1. Certificate-A Commercial—requires the following:

a. The driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law necessary to operate a school bus type commercial motor vehicle to qualify for issuance.

b. The driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

2. Certificate-A Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver's license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

3. Certificate-B Commercial—requires the following:

a. A driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law to operate a school bus type commercial motor vehicle to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of Department-approved in-service training annually to qualify for renewal.

4. Certificate-B Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver's license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of Department-approved in-service training annually to qualify for renewal.

5. Certificate-C Commercial—requires the following:

a. A driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law to operate a school bus type commercial motor vehicle to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

6. Certificate-C Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver's license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

I. 1. Any drivers receiving a license suspension for a moving violation or accumulating more than four (4) points against his or her driving record with the Department of Motor Vehicles after being issued a Department School Bus Driver's Certificate shall have the certificate suspended. If a certificated driver receives a ticket for Driving Under the Influence (DUI), the certificate shall be suspended, and if convicted of DUI, the driver's Department Certificate shall be revoked. The employer of the driver shall notify the Department within thirty (30) days of such excessive driver license points and DUI actions.

2. All driver candidates are subject to a South Carolina criminal background check which must be conducted by their employer before transporting students. The employer may require additional federal level security and criminal background checks.

XV. State-owned/leased school buses shall comply with the speed limits established in Section 59-67-515 or posted speed limits if less than 45 miles per hour.

XVI. All state-owned/leased buses shall be equipped with an operational stop-arm which meets the requirements of Federal Motor Vehicle Standard (FMSS) 131; School Bus Pedestrian Safety Devices.

XVII. The Board of Trustees shall have the authority to remove a bus from a regular school bus route when it is determined that the conduct of the passengers or others endangers the life and safety of the bus driver and passengers.

XVIII. The Board of Trustees may authorize the bus driver to assign seats to bus passengers when it is determined to be in the best interest of the transportation program.

XIX. Each school district shall submit to the Department in writing no later than May 1st of each year, any major changes in school assignments which would require a change in the number of buses for the following school year.

XX. SPECIAL TRANSPORTATION SERVICE

A. When state-owned/leased buses are used by the schools for educational purposes other than transporting students to and from school, the cost of operation shall be borne by the school district. The operator shall be paid by the local school district. In addition, a charge for the use of the bus (use fee) as determined by the Department and approved by the SBE, payable to the Department, shall be made. The Board of Trustees will be responsible for damages to the bus as a result of abuse. The bus use fees are applicable to all trips other than the regularly scheduled trips or trip segments to and from school as shown on the approved route description for the school district.

B. The use of state-owned/leased buses for purposes other than transporting students to and from school shall in no way conflict with the regular school schedule.

C. The use of state-owned/leased buses shall be limited to those events and activities sponsored by school districts.

D. Request for documentation of the use of buses for purpose of special services must be secured from the designated representative of the Department prior to the vehicle's use.

E. The use of state-owned/leased buses for special purposes for trips outside the State shall be limited to athletic and other school activities in adjacent counties in Georgia and North Carolina with the following exceptions. In North Carolina: Polk, Henderson, Transylvania, Jackson, and Macon Counties have mountainous terrain. State-owned/leased buses shall not be used for special activities in these counties without prior route approval by the designated representative of the Department.

F. The Department permit For The Use Of School Buses prepared by the school district must accompany the operator on each trip made by the bus.

G. The bus use fees shall be based on formula approved by the SBE. The formula shall reflect the operational cost experienced by the Department plus an appropriate vehicle replacement charge. In compliance with approved SBE bus use fee formula, the Department shall establish an annual fee for bus use.

Should any of the regulations listed in this section governing the use of school buses for special services be violated in any school district, the Department may withdraw approval to use state-owned school buses from any further special service.

XXI. Variations from Transportation Regulations may be approved by the Department when such variations are clearly in the interest of safety, efficiency and economy. School districts seeking a variance from a regulation must submit a written request seeking approval from the Department. The Department will approve or disapprove the request, in writing.

XXII. In accordance with Section 59-67-520 of the Code of Laws of South Carolina, as amended, it is hereby declared the policy of the SBE to provide transportation for handicapped students within a school district to the nearest school in which a class is located serving the student's disabilities.

XXIII. Eligibility for Transportation - Eligibility for transportation under State Board Regulation 43-80 Section XXII shall be limited to the following types of disabilities listed in State Board Regulation 43-243.1:

A. Autism (also referenced as autism spectrum disorder) including Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome
B. Deaf-blindness
C. Deaf/Hard of Hearing
D. Developmental Delay
E. Emotional Disability
F. Intellectual Disabilities
G. Multiple Disabilities
H. Other Health Impairment
I. Orthopedic Impairment
J. Specific Learning Disabilities
K. Speech-Language Impairment
L. Traumatic Brain Injury
M. Visual Impairment
N. Other disabilities identified in Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

Legal age for transporting students with disabilities are three- and four- years old and public school students (K–12) except for the hearing and visually handicapped which is 4–21 years of age. Students with disabilities may be transported on regular route school buses.

XXIV. The Board of Trustees shall be responsible for locating classes for students with the disabilities listed in State Board Regulation 43-80 Section XXIII in or near the geographic center of the district or area so that all students with these disabilities can be transported on the same bus. The Department shall not be required to provide separate transportation for students with disabilities.

XXV. Transportation will be provided either on state-owned/leased buses or by contract between the Department and the school district, whichever is most economical to the State.

The process for requesting transportation is limited to the two following options:

A. State-Owned/Leased Buses—State-owned/leased buses will be assigned when the number of eligible students (usually minimum of 6) live within an area to make a bus route feasible from a time and mileage standpoint. School district officials shall submit a map and route description to the designated representative of the Department to justify assignment of the bus. Maps and descriptions will be submitted annually in the same manner as for regular bus routes.

B. Contract Transportation—Contract transportation will be limited to students who cannot be transported efficiently by state-owned/leased buses. The procedures listed in this section will be used in requesting contract transportation.

1. The State Department will be notified of the name of the student, location of residence, and school to which such student(s) is to be assigned. If it is determined that the student or students cannot be transported on a bus already assigned to the district or if the number of students is insufficient to justify an additional bus, then, a contract will be signed between the school district and the parent or other individuals for transportation.

2. Contracts between the school district and parents or other individuals to transport one student will be based on a rate per mile as determined by the Department and approved by the SBE for each 90 school days. If more than one student is transported, the contract may be used on the rate per vehicle or passenger mile for the actual number of miles traveled.

3. When it is in the best interest of the State, contracts may be written for transporting students who live within 2 miles of the school. The SBE shall establish the funding limitation on the basis of a designated amount of dollars per student for 90 school days.

4. The maximum payment for transportation for any one student shall not exceed the amount established annually by the SBE for each 90 school days unless a special exception is approved by the SBE.

5. All proposed contracts must be approved by the Department prior to commencing transportation. Reimbursement will be from the date of approval.

6. Contract transportation will not be approved if transportation on state-owned/leased buses is more cost effective or productive except when otherwise required by the student's Individual Education Plan. Exceptions may be made in extreme cases upon written recommendation of the affected student's licensed medical doctor and the school district and upon approval by the Department.

XXVI. Transportation will be provided only during the regular school term not to exceed 180 school days.

XXVII. Transportation on state-owned/leased buses or by contract of students attending multi-district programs or programs conducted by agencies other than the public schools, will be provided only if the home district has received approval of "another facilities agreement" from the Department. This approval must be received prior to commencing transportation. The home district is responsible for securing contracts for transportation routes and for the requisitioning of funds.

XXVIII. Persons contracting to provide transportation must have insurance coverage at least equal to that carried on state-owned/leased buses as required by Section 59-67-710 of the Code of Laws of South Carolina, as amended.

XXIX. Reimbursement to the district for contracts shall be made at the end of each 90 school days. Request for reimbursement shall be submitted on a form furnished by the Department. The request for reimbursement shall be pro-rated if student attends fewer than 90 school days.

XXX. The Department will establish a School Bus Specifications Committee for the purpose of creating specifications for the procurement of state-owned/leased school buses. The Committee will be composed of members of the General Assembly or their designees; representatives of the business community; mechanical engineers profession; both local school district and state student transportation officials representing school bus maintenance, administration, driver training, and operations; and a representative of the State Fiscal Accountability Authority, Procurement Services. The State Superintendent of Education (SSE) or designee will make Committee appointments. The Committee will be responsible for reviewing, amending, and developing school bus specifications for all types of school buses purchased/leased by the State. These specifications will assure that the student transportation needs of the State are efficiently and effectively addressed. The Committee will recommend the specifications to the SSE or designee for approval.

Fiscal Impact Statement:

No additional funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-80, Section N.

Statement of Rationale:

Regulation 43-80, Section N details the training/testing processes and establishes different classifications of school bus driver certificates. The proposed amendments offer districts greater flexibility in certifying drivers to operate school buses

Regulation 43-80, Sections T and U provide details regarding the use of buses and boats operated by the State Department of Education for purposes other than transporting students to or from school. The proposed amendment will remove references to boats to bring the regulation in line with South Carolina Code of Laws Section 59-67-535.

Document No. 4831
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 5-7-12, 16-17-420, 59-5-60, and 59-5-65

43-210. School Resource Officers.

Synopsis:

The State Board of Education proposes to create R.43-210, to establish a definition of "school resource officers," along with expectations, roles, and procedures associated with these individuals.

Notice of Drafting for the proposed new regulation was published in the *State Register* on May 25, 2018.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-210. School Resource Officers.

I. Expectations for School Resource Officers in South Carolina Public Schools

School resource officers are necessary to provide law enforcement services to a safe learning environment. School resource officers shall act in accordance with policies and procedures of the local law enforcement agency or employing local governmental entity to enforce state laws and county and municipal ordinances.

II. Resource Officers Defined

A school resource officer is defined in S.C. Code Ann § 5-7-12.

III. Role of the School Resource Officer

A. Law Enforcement Officer

School resource officers shall not only be called to respond to criminal incidents, but also to assist in emergency crisis planning, building security, and training school personnel on handling crisis situations.

B. Law-Related Educator

Teachers and staff shall utilize school resource officers within the classroom to help design and present law-related topics regarding the role of law enforcement in our society.

C. Community Liaison

School administrators shall encourage school resource officers' visibility within the school community, as well as attendance and participation at school functions, to build working relationships with school personnel, students, and parents.

D. Positive Role Model

School resource officers shall be positive role models and may be used to promote the profession of law enforcement as a career choice for students. School administrators shall support positive interactions between school resource officers and students on school campuses.

IV. Procedures

A. Student Behavior

School resource officers are not school disciplinarians and shall not ordinarily be requested or permitted to intervene in school discipline matters. The school resource officers shall be called when a student's behavior amounts to a Level III violation for which law enforcement involvement is required (see Regulation 43-279). School resource officers shall be called to respond to any misconduct when

1. the conduct is criminal, or
2. the conduct presents an immediate safety risk to one or more people.

In addition, school administrators must also contact law enforcement consistent with S.C. Code Ann. 59-24-60.

When law enforcement referrals are required, a school resource officer shall be the first line of contact for local law enforcement to ensure that the matter is resolved expeditiously to decrease significant interruption to the learning process.

B. General provision for visitors, employees, and unauthorized persons.

The school resource officer shall be called immediately to handle a disturbance or emergency as defined in S.C. Code Ann. 16-17-420.

V. Memorandum of Understanding

Prior to placing a school resource officer at a school or in a district office, a memorandum of understanding must be executed between the school district, and the employing local law enforcement agency. The role of the school district, individual schools, local law enforcement agency, school administration, and the school resource officer shall be clearly defined in the memorandum of understanding. The role of the school resource officer must clearly be defined pursuant to S.C. Code Ann 5-7-12 and in the memorandum of understanding. The provisions of this regulation and Regulation 43-279 must be included in the memorandum of understanding.

The school district shall provide the school administration with a copy of the memorandum of understanding, and review it with the school administration and with the school resource officer prior to the start of every school year.

Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-210.

Statement of Rationale:

This regulation is being amended to clarify SRO training requirements and to ensure that the circumstances under which the SRO should be called are consistent with state law.

Document No. 4816
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-104-20

62-300 through 62-375. Palmetto Fellows Scholarship Program.

Synopsis:

R.62-300 through 62-375 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the Palmetto Fellow Scholarship Program and Palmetto Fellows Scholarship Enhancement are being considered to clarify the policies and procedures for administering the program and to update the information to allow a change in the Palmetto Fellows application process. In doing so, several definitions are updated, high school class ranking policies and transcripts requirements are clarified, and language was modified to reflect the current S.C. Uniform Grading Scale and Scholastic Aptitude Test (SAT) information. Additional changes were made to allow a Palmetto Fellow recipient to prorate their award during their final term of college enrollment. Lastly, to promote consistency among the state scholarship programs, there are additional changes

being proposed to allow a Palmetto Fellow recipient to enroll at an eligible institution up to one year after high school graduation.

The proposed regulation will require legislative review.

A Notice of Drafting was published in the *State Register* on May 25, 2018.

Instructions:

Replace R.62-300 through 62-375 of Chapter 62 in its entirety.

Text:

62-300. Purpose of the Palmetto Fellows Scholarship and Scholarship Enhancement
62-305. Allocation of Program Funds
62-310. Definitions
62-315. Initial Eligibility for Palmetto Fellows Scholarship
62-318. Eligibility for Palmetto Fellows Scholarship Enhancement
62-320. Palmetto Fellows Scholarship Application
62-325. Palmetto Fellows Scholarship Selection Process
62-330. Policies and Procedures for Awarding the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement
62-335. Duration and Renewal of Awards
62-340. Transfer of Reapplication for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement
62-345. Students with Disabilities
62-350. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Exchange Programs
62-351. Military Mobilization
62-355. Appeals Procedures
62-360. Institutional Disbursement of Funds
62-365. Refunds and Repayments
62-370. Program Administration and Audits
62-375. Suspension or Termination of Institutional Participation

62-300. Purpose of the Palmetto Fellows Scholarship and Scholarship Enhancement.

A. Pursuant to Act 458 and amended by Act 95 and Act 162 in 2005, the Commission on Higher Education shall promulgate regulation and establish procedures to administer the Palmetto Fellows Scholarship Program. The General Assembly established the Palmetto Fellows Scholarship Program to foster scholarship among the State's postsecondary students and retain outstanding South Carolina high school graduates in the State through awards based on scholarship and achievement. The purpose of the Palmetto Fellows Scholarship Program is to recognize the most academically talented high school seniors in South Carolina and to encourage them to attend eligible colleges or universities in the State. A secondary purpose is to help retain talented minority students who might otherwise pursue studies outside the State.

B. Pursuant to Act 115 and amended by Act 235 in 2008, the Commission on Higher Education shall promulgate regulation and establish procedures for administration of the Palmetto Fellows Scholarship Enhancement. The General Assembly established the Palmetto Fellows Scholarship Enhancement in order to foster scholarship among the State's postsecondary students through awards based on scholarship and achievement. The purpose of the Palmetto Fellows Scholarship Enhancement Program is to recognize the most academically talented college students throughout the state of South Carolina in the areas of mathematics and science and encourage

them to attend eligible colleges or universities in the State. In order to receive a Palmetto Fellows Scholarship Enhancement, all students must qualify for a Palmetto Fellows Scholarship as stipulated herein.

C. Independent and public institutions of higher learning in this or any other state in the U.S., outside the U.S. or abroad are prohibited from using the Palmetto Fellows Scholarship in programs that promote financial aid incentives or packages. Any mention of the Palmetto Fellows Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Palmetto Fellows Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

62-305. Allocation of Program Funds.

A. Funds made available for higher education grants and scholarships under Chapter 143 of Title 59 of the 1976 Code, as amended under Act 458, South Carolina Children First: Resources for Scholarship and Tuition Act of 1996, shall be included in the annual appropriation to the Commission on Higher Education. Fifty percent of the appropriation shall be designated for the Palmetto Fellows Scholarship Program and the remaining fifty percent shall be for the Need-based Grants Program. However, in instances where the equal division of the appropriated funds between the Palmetto Fellows Scholarship and Need-based Grants Programs exceeds the capacity to make awards in either program, the Commission on Higher Education has the authority to re-allocate the remaining funds between the two programs.

B. Under the South Carolina Education Lottery Act, a designated amount shall be allocated for Palmetto Fellows Scholarships and shall be included in the annual appropriation to the Commission on Higher Education.

C. After expending funds appropriated for Palmetto Fellows Scholarships from all other sources, there is automatically appropriated from the general fund of the State whatever amount is necessary to provide Palmetto Fellows Scholarships to all students meeting the requirements of Section 59-104-20.

D. The Palmetto Fellows Scholarship Enhancement is contingent upon the availability of funds appropriated by the General Assembly each academic year.

62-310. Definitions.

A. “Academic year” is defined as the twelve-month period of time during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year consists of the fall, spring and immediately succeeding summer terms.

B. “Annual credit hour requirement” is defined for the Palmetto Fellows Scholarship as a minimum of thirty (30) credit hours taken and earned at the end of each academic year based on the date of initial college enrollment. Credit hours cannot include remedial, continuing education, exempted credit hours (such as AP, CLEP, IB, etc.), credit hours earned before high school graduation (dual enrollment) and credit hours earned the summer term immediately following high school graduation. Credit hours earned before high school graduation, including Advanced Placement (AP) credit hours, International Baccalaureate (IB) credit hours, exempted credit hours as well as credit hours earned on active duty, must be placed on the student’s official college transcript by the institution at which they are earned, and be counted toward the annual credit hour requirement for the purposes of the Palmetto Fellows Scholarship Enhancement. Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

C. “Approved five-year bachelor’s degree program” is defined as a five-year bachelor’s program that is defined and approved by the Commission on Higher Education to receive the Palmetto Fellows Scholarship for a maximum of ten terms and the Scholarship Enhancement for a maximum of eight terms at the same eligible independent or public institution in order to complete the requirements for a bachelor’s degree. An approved five-year bachelor’s degree program does not include institutional and cooperative “3 plus 2” programs.

D. "Bachelor's degree program" is defined as an undergraduate program of study leading to the first bachelor's degree as defined by the U.S. Department of Education.

E. "CIP (Classification of Instructional Program) Code" is defined as the U.S. Department of Education's standard for federal surveys and state reporting for institutional data (majors, minors, options and courses). For the purpose of receiving the Palmetto Fellows Scholarship Enhancement, CIP Codes have been approved by the Commission on Higher Education for eligible degree programs in the fields of mathematics and science.

F. "Continuing education coursework" is defined as postsecondary courses designed for personal development and that cannot be used as credit toward a degree.

G. "Continuously enrolled" is defined as enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions with the exception of students changing degree level within the programs cited in paragraphs L and HH of this section and students who have been granted preapproved leave status for no longer than one semester by their institution. Continuously enrolled includes summer terms, military mobilization, or students who transfer from a four-year institution only to return to a four-year institution. Students who are enrolled in internships, cooperative work programs, travel study programs, or National or International Exchange Programs that are approved by the home institution are considered continuously enrolled. Any student who has been suspended, expelled**,** does not attend subsequent (or consecutive semesters) that does not require a formal process of readmission to that institution, or voluntarily withdraws from a four-year institution and/or enrolls at a two-year institution during the interruption is considered to be no longer continuously enrolled.

H. "Cost-of-attendance" is defined by Title IV regulations and may include tuition, fees, books, room and board, and other expenses related to transportation, disability or dependent care.

I. "Cumulative grade point average (GPA)" is defined as the cumulative institutional GPA used for graduation purposes, which includes dividing the total number of quality points earned in all courses by the total credit hours in all courses attempted at the student's home institution. The cumulative GPA must be at least a 3.0 at the home institution for graduation purposes at the end of each academic year based on the date of initial college enrollment.

J. "Date of initial college enrollment" is defined as the first time a student matriculates into a postsecondary degree-granting institution after high school graduation or completion of an approved home school program, excluding the summer term immediately prior to the student's enrollment in the first regular academic year. Students must remain continuously enrolled as any break in enrollment (excluding summer) will count toward the student's terms of eligibility.

K. For the purposes of the Scholarship Enhancement, "declared major" is defined as an eligible degree program in which a student is enrolled as a full-time, degree-seeking student. The student must meet all requirements as stipulated by the policies established by the institution and the academic department the student is enrolled in a declared major in an eligible degree program. Students cannot take courses related to a specific program without meeting institutional and departmental policies and be considered enrolled in a declared major. Students must be enrolled in a declared major in an eligible degree program that is approved and assigned a CIP code by the Commission. Eligible degree programs are those listed as such on the Commission's Web site. Students who change their declared major from an ineligible degree program to an eligible degree program within the same academic year shall not receive the Palmetto Fellows Scholarship Enhancement for that academic year. Additionally, students who change their declared major from an eligible degree program to an ineligible degree program within the same academic year will not lose eligibility until the next academic year.

L. “Degree-seeking student” is defined as a student enrolled full-time in a program of study that leads to the first bachelor’s degree, first approved five-year bachelor’s degree or a program of study that is structured so as not to require a bachelor’s degree at an eligible independent or public institution. Students must maintain their undergraduate status in order to receive the Palmetto Fellows Scholarship and the Scholarship Enhancement each academic year, with the exception of students enrolled in the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Doctor of Pharmacy at the Medical University of South Carolina; 3) Doctor of Pharmacy at the University of South Carolina; and 4) Doctor of Pharmacy at Presbyterian College.

M. “Eligible degree program” is defined for the purposes of the Palmetto Fellows Scholarship Enhancement as a degree program in mathematics or science as approved by the SC Commission on Higher Education. These programs include science or mathematics disciplines, computer science or informational technology, engineering, health care and health care related disciplines (including nursing, pre-medicine and pre-dentistry) as defined by the Commission on Higher Education. Enrollment in a minor does not meet the requirements of an eligible degree program for the Palmetto Fellows Scholarship Enhancement. Students must be enrolled in a declared major in an eligible degree program that is approved and assigned a CIP Code by the Commission. Eligible degree programs are those listed as such on the Commission’s Web site.

N. “Eligible high school” is defined as a public, private, charter, virtual, Montessori, or Magnet high school located within South Carolina, an approved home school program as defined in relevant State Statute (Sections 59-65-40, 45, and 47) or a preparatory high school located outside of the State while the student is a dependent of a legal resident of South Carolina who has custody or pays child support and college expenses of the dependent high school student in accordance with Section 59-112-10. A "preparatory high school" (out-of-state) is defined as a public or private school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

O. “Early awards” is defined as a period determined by CHE to apply for the Palmetto Fellows Scholarship. Application must be made through the students’ high school. This period is generally from the end of the student’s junior year (3rd year in high school) through April of the student’s senior year (4th year in high school).

P. “Early graduate” is defined as a student who graduates mid-year their senior year.

Q. “Eligible institution” is defined as a SC four-year public or independent bachelor’s level institution.

R. “Felonies” are defined as crimes classified under State statute (Section 16-1-10) for which the punishment in federal or state law and typically requires imprisonment for more than one year.

S. “Fifth year” is defined as the ninth or tenth consecutive term of undergraduate coursework in an approved five-year bachelor’s program. The fifth year is based on the student’s date of initial college enrollment after graduation from high school.

T. “First/freshman year” is defined as the first or second consecutive term of undergraduate coursework following high school graduation.

U. “For graduation purposes” is defined as any grade or credit hour that the home institution requires in accordance with their policies and procedures for graduation of the student, including electives and additional coursework.

V. “Fourth year” is defined as the seventh or eighth consecutive term of undergraduate coursework. The fourth year is based on the student’s date of initial college enrollment after graduation from high school.

W. “Full-time student” shall mean a student who has matriculated into a program of study leading to the first bachelor’s degree, first approved five-year bachelor’s degree or a program of study that is structured so as not to require a bachelor’s degree and leads to a graduate degree and who enrolls full-time, usually fifteen credit hours for the fall and fifteen credit hours for the spring term. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time at the home institution as stipulated by Title IV Regulations, except that credit hours may not include remedial coursework or continuing education coursework. Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

X. “Gift aid” is defined as scholarships and grants that do not nor will not under any circumstance require repayment, and excludes any self-help aid such as student loans and work-study.

Y. “Home institution” is defined as the independent or public institution where the student is currently enrolled as a full-time, degree-seeking student and may be eligible for financial aid at the same institution.

Z. “Independent institutions” are defined, for the purposes of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement Programs, as those four-year institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an "independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of Colleges and Schools; or an independent bachelor’s level institution which was incorporated in its original charter in 1962, was granted a license to operate in 1997 by the Commission on Higher Education, has continued to maintain a campus in South Carolina, and is accredited by the Southern Association of Colleges and Schools. Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of ‘public or independent institutions’ for purpose of this charter”. Two-year independent institutions are not eligible to participate in the Palmetto Fellows Scholarship Program.

AA. “Ineligible degree program” is defined for the purposes of the Palmetto Fellows Scholarship Enhancement as any degree program that is not on the Commission’s posted list of eligible degree programs.

BB. “Late awards” is defined as a period determined by CHE for high school seniors to apply for the Palmetto Fellows Scholarship. Application must be made through the students’ high school. This period is generally from May through June of the academic year.

CC. Lawful Presence” is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien’s immigration status with the federal government pursuant to 8 USC Section 1373(c). Only those individuals whose lawful presence in the US has been verified prior to initial college enrollment may receive the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

DD. “Military mobilization” is defined as a situation in which the U.S. Department of Defense orders service members to active duty away from their normal duty assignment during a time of war or national emergency. Service members include: 1) active duty and reserve members in the Army, Navy, Air Force, Marine Corps and Coast Guard, and; 2) members of the Army and Air National Guard.

EE. “Misdemeanor offenses” are defined as crimes classified under State statute (Section 16-1-100), less serious than felonies, and are typically punishable by fine or imprisonment for less than one year. A complete listing is located under Title 16 of State statute. Examples of alcohol and/or drug-related misdemeanor offenses in South Carolina include, but are not limited to, possession of alcohol while under the age of 21, possession of marijuana/illegal drugs, open container, transfer of alcohol to persons under 21, providing false information as to age (fake identification), etc.

FF. “Multi-handicapped student” shall be defined as a student who, in addition to being visually or hearing impaired, has at least one additional disabling condition that qualifies the student to receive specialized postsecondary education.

GG. “Palmetto Fellow” is defined as a student awarded the Palmetto Fellows Scholarship during his/her senior year of high school and continues to meet all eligibility requirements to receive the Palmetto Fellows Scholarship. A Palmetto Fellow who is not awarded any Palmetto Fellows Scholarship funds due to the cost of attendance being met by other sources of financial aid will still be classified as a Palmetto Fellow.

HH. “Program of study that is structured so as not to require a bachelor’s degree” shall be defined as a program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree, which will be the student’s first academic degree awarded, as defined by the U.S. Department of Education. Students are eligible for a maximum of eight terms as long as all other eligibility criteria are met and the program is approved by the Commission on Higher Education. Students must maintain their undergraduate status each academic term, with the exception of students enrolled in the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Doctor of Pharmacy at the Medical University of South Carolina; 3) Doctor of Pharmacy at the University of South Carolina; and 4) Doctor of Pharmacy at Presbyterian College. Students who have been awarded a bachelor’s or graduate degree are not eligible for funding.

II. “Public institutions” are defined, for the purposes of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement Programs, as those four-year bachelor’s degree-granting institutions as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates "public higher education shall mean state-supported education in the postsecondary field." Public two-year institutions and technical colleges are not eligible for participation in this Program.

JJ. “Reapplication student” is defined as a student who applied for and was offered the Palmetto Fellows Scholarship as a senior in high school, but declined the award to attend an out-of-state, four-year institution no later than the fall term one year immediately following high school graduation. If a student attends an out-of-state institution at any time during the eight eligible terms, after attending an out-of-state four-year institution, the student must return to SC, enroll in an eligible SC four-year institution, and make a request to CHE for reapplication for the Palmetto Fellows Scholarship.

KK. “Remedial coursework” shall be defined as sub-collegiate level preparatory courses in English, mathematics, reading or any other course deemed remedial by the institution where the course is taken.

LL. “Second year” is defined as the third or fourth consecutive term of full-time, undergraduate coursework. The second year is based on the student’s date of initial college enrollment after graduation from high school.

MM. “South Carolina resident” is defined as an individual who satisfies the requirements of residency in accordance with the state of South Carolina’s Statute for Tuition and Fees, Section 59-112-10, and all related guidelines and regulations promulgated by the Commission on Higher Education as determined by the institutional residency officer each academic year.

NN. “Satisfactory academic progress in a declared major” is defined for the purposes of the Scholarship Enhancement as the progress required by the institution and academic department in which the student is enrolled as a full-time, degree-seeking student. Students must meet all requirements for satisfactory academic progress toward degree completion in their declared major as established by the policies of both the institution and the declared major in which the student is enrolled to meet the requirements of satisfactory academic progress.

OO. “Substantially deviates” shall be defined, for the purposes of reviewing out-of-state preparatory high school grading scales, as being less than equivalent to the current South Carolina Uniform Grading Policy.

PP. "Transfer student" is defined, for the purposes of the Program, as a student who has changed full-time enrollment from one eligible independent or public institution to another eligible independent or public institution.

QQ. "Transient student" is defined as a student enrolled in a non-matriculated status, which means he/she is granted temporary admission to earn credit hours that will transfer back to his/her home institution toward a degree. A transient student is not eligible to receive the Palmetto Fellows Scholarship or the Scholarship Enhancement unless the student is participating in a program that is both approved and accepted as full-time transfer credit by the home institution.

RR. "Third year" is defined as the fifth or sixth consecutive term of undergraduate coursework. The third year is based on the student's date of initial college enrollment after graduation from high school.

62-315. Initial Eligibility for Palmetto Fellows Scholarship.

A. In order to qualify for consideration for a Palmetto Fellows Scholarship, a student must:

1. Meet the eligibility criteria stipulated under the "Palmetto Fellows Scholarship Application" Section;

2. Be enrolled as a senior in an eligible high school;

3. Be classified as a South Carolina resident at the time of college enrollment;

4. Be a U.S. citizen or a lawful permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence in the US has been verified at the time of enrollment at the institution. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c). A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;

5. Be seriously considering attending, have applied, or have been accepted for admission to an eligible four-year bachelor's degree-granting independent or public institution in South Carolina as a first-time, full-time, degree-seeking student; and

6. Certify that he/she has never been adjudicated delinquent, convicted or pled guilty or *nolo contendere* to any felonies and any second or subsequent alcohol, or drug related offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit each academic year to the home institution testifying to the fact, except that a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second or subsequent alcohol or drug related misdemeanor offense is only ineligible the next academic year of enrollment in an eligible independent or public institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the home institution, the student will continue to be eligible for the remainder of that academic year. However, the student will be ineligible the following academic year of enrollment. If a student completes a pretrial intervention program and subsequently has his/her record expunged, the conviction will not affect the student's eligibility;

7. Submit the official Palmetto Fellows Scholarship Application by the established deadline(s) and comply with all the directions contained therein.

B. The high schools shall ensure that all students meeting the eligibility criteria are given the opportunity to be included in the applicant pool.

C. A student who graduates immediately after the high school sophomore year is eligible to apply for the Palmetto Fellows Scholarship, providing that the student meets all eligibility requirements as described in the "Initial Eligibility" Section and providing that the student is entering an eligible independent or public four-year institution no later than the fall term one year immediately following high school graduation.

D. A student who graduates in December/January of the high school senior year (considered an early graduate) is eligible to apply for the Palmetto Fellows Scholarship after the completion of the junior year but prior to graduating high school, provided that the student meets all eligibility requirements as described in the "Initial Eligibility" Section and provided that the student is entering an eligible independent or public four-year institution no later than the Spring term one year immediately following high school graduation. Early graduates must be certified by the high school principal that they have met the SC graduation requirements. Students who graduate high school mid-year are unable to use rank as an eligibility criterion. The SC UGP GPA, as well as the high school graduation date, must be printed on the official final high school transcript. Students must enroll full-time continuously at a four-year institution no later than the Spring term one year immediately upon high school graduation. Early graduates who enroll mid-year (spring term) and are awarded the Palmetto Fellows Scholarship through the Early Graduation process will officially begin their initial college enrollment. In order to receive the Palmetto Fellows Scholarship the next academic year for a student who enrolls mid-year, the student must earn a minimum of fifteen credit hours and a 3.0 cumulative institutional GPA by the end of the academic year.

E. Students cannot earn eligibility for the Palmetto Fellows Scholarship after high school graduation. All students must apply and be awarded during the high school senior year.

F. Students receiving the Palmetto Fellows Scholarship are not eligible for the LIFE Scholarship, SC HOPE Scholarship or Lottery Tuition Assistance within the same academic year.

G. Any student who attempts to obtain or obtains the Palmetto Fellows Scholarship through means of a willfully false statement or failure to reveal any material fact, condition or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship.

62-318. Eligibility for Palmetto Fellows Scholarship Enhancement.

A. To be eligible for the Palmetto Fellows Scholarship Enhancement each academic year, a student must be:

1. A Palmetto Fellow at the time the Scholarship Enhancement is disbursed;

2. Enrolled full-time, degree-seeking in a declared major in an eligible degree program;

3. Making satisfactory academic progress toward completion of his/her declared major; and

4. Enrolled in the second year, third year, fourth year, or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution.

B. Students must successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment, credit hours earned during the summer session immediately prior to the student's date of initial college enrollment, Pass/Fail courses with a grade of "Pass" (only), International Baccalaureate (IB) courses and Advanced Placement (AP) courses in mathematics and life and physical sciences taken in high school in which the student scored a three or more on the advanced placement test and received college credit may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement.

C. Students who initially enroll in college mid-year (i.e., spring term) as a first year student and meet the requirements under Section 62-318 may be eligible to receive a Palmetto Fellows Scholarship Enhancement at the beginning of the spring term of the next academic year (i.e., beginning with the third consecutive term of full-time enrollment based on initial date of college enrollment). A student who initially enrolls mid-year (i.e., spring term) must earn a minimum of 15 credit hours and a 3.0 cumulative institutional GPA to be awarded a Palmetto Fellows Scholarship the following academic year. A student must earn a 3.0 cumulative institutional GPA and a minimum of 30 credit hours each subsequent year of enrollment to receive a Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

D. Any student who attempts to obtain or obtains the Palmetto Fellows Scholarship Enhancement through means of a willfully false statement or failure to reveal any material fact, condition or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship Enhancement.

62-320. Palmetto Fellows Scholarship Application.

A. The Commission on Higher Education will send information regarding the application process to all South Carolina high schools, home school associations and district superintendents. High schools and/or home school associations that do not receive information regarding the application process from the Commission on Higher Education by the beginning of each application process must contact the Commission for information. It is the sole responsibility of the high schools, home schools, home school associations, and district superintendents to contact CHE regarding the Palmetto Fellows Scholarship program including the application process. High school officials will identify students who meet the specified eligibility criteria by each established deadline. High school officials must submit applications (both electronic and paper documentation) no later than the established deadline(s) along with the appropriate signatures, official transcripts and test score verification to the Commission on Higher Education. High school officials must certify each eligible applicant's signature form. Students who are enrolled at out-of-state high schools are personally responsible for contacting the Commission on Higher Education about the application process and must adhere to the same established deadline(s).

B. The high schools and home school associations must submit a list to the Commission on Higher Education indicating the names of all students who meet the eligibility criteria at their high school. The list should indicate whether the student is submitting a completed application or declining the opportunity to apply. If the student declines the opportunity to apply, the high school will submit a form for each of these students, signed by both the student and the parent/guardian and indicating the reason(s) for not submitting an application. Students who decline to apply for the Scholarship forfeit any future eligibility under this Program.

C. Applications for early awards must be submitted to the Commission on Higher Education for the Palmetto Fellows Scholarship by the date established each academic year. Students must meet one of the following set of academic criteria in order to be eligible to apply for the early awards (students cannot use the early awards criteria to apply during the late awards):

1. Score at least 1200 on the SAT or 27 on the ACT through the March test administration of the senior year; earn a minimum 3.50 cumulative GPA on the current SC Uniform Grading Policy (UGP) at the end of the junior year; and rank in the top six percent of the class at the end of either the sophomore or the junior year; or

2. The alternate criteria of a score at least 1400 on the SAT or 32 on the ACT through the March test administration of the senior year and earn a minimum 4.00 cumulative GPA on the UGP at the end of the junior year, without regard to class rank.

3. High schools or home school associations that do not rank as an official policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and do not convert the graduating class

grades to the current SC UGP to determine class rank, must use the alternate criteria of meeting the academic requirements for the Palmetto Fellow Scholarship.

4. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

D. Applications for late awards must be submitted to the Commission on Higher Education for the Palmetto Fellows Scholarship by the date established in June each academic year. Students must meet one of the following set of academic criteria in order to be eligible to apply for the late awards:

1. Score at least 1200 on the SAT or 27 on the ACT through the June test administration of the senior year; earn a minimum 3.50 cumulative GPA on the UGP at the end of the senior year; and rank in the top six percent of the class at the end of the sophomore, junior or senior year; or

2. Score at least 1400 on the SAT or 32 on the ACT through the June test administration of the senior year and earn a minimum 4.00 cumulative GPA on the UGP at the end of the senior year, without regard to class rank.

3. High schools or home school associations that do not rank as a policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and that do not convert the graduating class grades to the current SC UGP to determine class rank, must use the alternate criteria of meeting the academic requirements for the Palmetto Fellow Scholarship.

4. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

E. Students must have official verification that they earned the requisite score on the SAT or an equivalent ACT score. In order to determine the minimum composite score for the SAT, students must use the highest Math score combined with the highest Evidence-Based Reading and Writing score. However, students cannot use the Essay subsection score to meet the minimum SAT score requirement. In order to determine the minimum composite score for the ACT, students must use the highest composite score based upon one test administration.

F. Grade point averages must be based on the current SC Uniform Grading Policy, reported with at least two decimal places, and may not be rounded up. The SC UGP GPA and class rank (if school/association officially ranks as a policy) must be printed on an official final end of year high school transcript, which must also include a uniform date of calculation as determined by the Commission on Higher Education. The graduation date must also be printed on the final end of senior year high school transcript.

G. Class rank must be based on the SC Uniform Grading Policy using diploma candidates only. Class rank is determined at the end of the sophomore, junior and senior years (not the beginning of the next school year) before including any summer school coursework or including any students who transfer into your high school after the school year ended in May/June. Students cannot be removed from the class because they did not meet the eligibility criteria to apply, declined to apply, are not residents of the State, do not meet citizenship requirements, plan to attend college out-of-state, etc. The class rank information must include all students who attended your high school that school year. The rank policy and rank policy information must be available to parents, students, colleges, and universities, and the Commission on Higher Education in publication form to include a school's website, student/parent handbook, and/or school profile. This language must include the ranking policy in place at the school/association. The ranking policy should be consistent in all places where the rank policy is published and is the same information disseminated to parents, students, colleges/universities, and the Commission. The SC UGP GPA and class rank (if school/association officially ranks as a policy) must be printed on an official final end of year high school transcript, which must also include a uniform date of calculation as determined by the Commission on Higher Education. The graduation date must also be printed on the final end of senior year high school transcript.

H. The number of students included in the top six percent of the class will be the next whole number if the top six percent is not already a whole number. For example, a class size of 185 students would include the top twelve students since 11.1 rounds up to twelve. For those high schools that officially rank as a policy (see section 62-320.G.) with fewer than twenty students in the class, the top two students (students ranked as number one and two) shall be considered for the Scholarship regardless of whether they rank in the top six percent of the class. These students must meet all other eligibility criteria.

I. In order to apply for the Palmetto Fellows Scholarship using rank as one of the eligibility criteria, home school students must be a member of an approved home school program (as defined in relevant State Statute) that provides an official class rank for their members. All high schools (see section 62-310.N.) and home school associations must submit a rank report on official school/association letterhead that includes the class rank and GPA based on the current SC Uniform Grading Policy for all students in the applicant's class. If a student is unable to obtain rank verification, he/she may also be eligible to apply using the alternative criteria of scoring at least 1400 on the SAT (or 32 on the ACT) and earning a minimum 4.00 cumulative GPA on the SC UGP, without regard to class rank. These students must meet all other eligibility criteria.

J. For schools or home school associations that do not rank as an official policy, students must use the alternate criteria to meet eligibility requirements for the Palmetto Fellows Scholarship.

K. For the purposes of meeting the rank criterion, the existing high school rank of a South Carolina resident attending an out-of-state high school may be used, provided it is calculated pursuant to a state-approved, standardized grading scale at the respective out-of-state high school. If the Commission on Higher Education determines that a state-approved standardized grading scale substantially deviates from the S.C. Uniform Grading Scale, the state-approved, standardized grading scale shall not be used to meet the eligibility requirements for the Palmetto Fellows Scholarship. The school counselor from the out-of-state preparatory school also has the option of converting the cumulative GPAs of all students in the applicant's class to the current SC UGP to determine if the student ranks within the top six percent of the class and must provide a ranking report that identifies all students in the applicant's class and their respective GPA's based on the SC UGP. When converting scores to the SC UGP, weighting must adhere to the SC UGP (i.e. honors no more than .50 and AP/IB no more than 1.0). In addition, scores/grades must correspond to the SC UGP. For example, if a student earned a 90 in an honors class, the conversion of the scores/grades must be equivalent to the points assigned according to the current SC UGP. To be considered equivalent, the out-of-state school's grading scale must adhere to the following minimum requirements:

1. Must include all courses carrying Carnegie units, including units earned at the middle school and high school level;

2. To be equivalent to an "A" letter grade, the numerical average must be ≥ 90; to be equivalent to a "B" letter grade the numerical average must be between 80 and 89; to be equivalent to a "C" letter grade the numerical average must be between 70 and 79; to be equivalent to a "D" letter grade the numerical average must be between 60 and 69; and to be equivalent to a "F" letter grade the numerical average must be between 51 and 59 (if a course with a numerical average of < 51 is considered passing by the high school the student earned the grade, then a 65 numerical average should be given);

3. Cannot add more than one half (.50) additional quality point for honors courses; cannot add more than one additional quality point for dual enrollment (DE) courses, Advanced Placement (AP) courses, and standard level International Baccalaureate (IB) courses; and, cannot add more than two additional quality points for higher level IB courses;

4. Must classify all other courses as College Preparatory if they are not already classified as honors, DE, AP or IB. For a class to be classified as honors, the course must be in English, mathematics, science or social studies or be the third/fourth level for all other content areas; and

5. If no numerical average is available, all letter grades must be converted to the equivalent numerical average based on the following: all "A" letter grades must be converted to a 95 numerical average, all "B" letter grades must be converted to a 85 numerical average, all "C" letter grades must be converted to a 75 numerical average, all "D" letter grades must be converted to a 65 numerical average, and all "F" letter grades must be converted a 50 numerical average.

L. Students who attend out-of-state preparatory high school may also be eligible to apply by using the alternative criteria of scoring at least 1400 on the SAT (or 32 on the ACT) and earning a minimum 4.00 cumulative GPA on the current SC Uniform Grading Policy. The student's school counselor must convert the student's grades to the UGP to determine if the student meets the GPA requirement. These students must meet all other eligibility criteria, including South Carolina residency requirements.

M. Students submitted for the late award will need to make arrangements for tuition and fee payments as a student will not be notified of their PFS status in enough time to meet any institutionally established payment deadlines.

62-325. Palmetto Fellows Scholarship Selection Process.

A. The Commission on Higher Education will notify students of their selection as a Palmetto Fellow along with the terms and conditions of the award.

B. Students who have met the academic requirements of the Scholarship must return a form to the Commission that designates an eligible four-year independent or public institution in which they plan to enroll by the date established by the Commission on Higher Education. The Palmetto Fellows Scholarship will only be awarded to those students who have a lawful presence in the United States and have been identified as a SC resident at the time of initial college enrollment.

C. Visually impaired, hearing impaired or multi-handicapped students who qualify for the Scholarship may use the Palmetto Fellows Scholarship to attend a four-year out-of-state institution that specializes in educating students with their impairment upon receiving prior approval from the Commission on Higher Education. The Commission on Higher Education shall make the final decision whether an out-of-state institution specializes in the postsecondary education of visually impaired, hearing impaired or multi-handicapped students.

D. The Commission on Higher Education shall ensure that there is equitable minority participation in the Program.

62-330. Policies and Procedures for Awarding the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

A. The institution will identify award amounts, which cannot exceed:

1. $6,700 the first/freshman year and $7,500 for the second year, third year, fourth year and fifth year (if applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation (See Section 62-330.B).

2. $2,500 for the second year, third year, fourth year and fifth year (if applicable) year for the Palmetto Fellows Scholarship Enhancement. Eligible Palmetto Fellows may prorate their award amount for the term of graduation (See Section 62-330.B).

3. For mid-year initial college enrollment (i.e. a student who starts college in the spring term), a student may receive a maximum of $3,350 for the spring term. Beginning the second academic year (i.e. the fall term) a student may receive up to $7,500 for the second year, third year, fourth year and fifth academic year (if

applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation.

B. Half shall be awarded during the fall term and half during the spring term. Palmetto Fellows Scholarships and Palmetto Fellows Scholarship Enhancements are to be used only toward payment for cost-of-attendance as established by Title IV Regulations with modifications set forth in D below for the academic year the award is made at the designated independent or public institution. The maximum amount awarded shall not exceed the cost-of-attendance as established by Title IV Regulations for any academic year. During the seventh or eighth term of attendance, the institution may prorate the Palmetto Fellow Scholarship and the Palmetto Fellows Scholarship Enhancement award amount, for the number of credit hours attempted for the current term of attendance, which must be the term of graduation for the student. Proration will be based on 12 credit hours.

C. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year cannot be awarded the Palmetto Fellows Scholarship Enhancement until the next academic year. Additionally, students who change their major from an eligible degree program to an ineligible degree program during the same academic year will retain their Palmetto Fellows Scholarship Enhancement eligibility for the remainder of the current academic year.

D. Charges for room and board are to be limited as follows:

1. Room charges shall not exceed the average cost of on-campus residential housing; and

2. Board charges shall not exceed the cost of the least expensive campus meal plan that includes 21 meals per week.

E. In determining the amount awarded for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds, must be applied to the unmet cost-of-attendance before calculating the Scholarship and Enhancement amounts and making the award. Adjustments to the financial aid package will be made to the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement in accordance with prescribed Title IV regulations in order to prevent an over-award.

F. Although a student may be named a Palmetto Fellow, the student may not receive a monetary award, if the award when combined with all other sources of gift aid would cause the student to receive financial assistance in excess of the student's cost-of-attendance as defined by Title IV regulations and the guidelines contained herein.

G. Eligible four-year independent and public institutions will notify students of their award along with the terms and conditions.

H. Effective Fall 2008, Section 59-101-430 (A), Chapter 101, Title 59 of the 1976 Code states that unlawful aliens are prohibited from attending SC Public institutions of higher learning. This does apply to students who are currently enrolled, as well as new enrollees. In accordance of this law, institutions must institute a process that verifies an individual's lawful presence in the United States. This process must verify any alien's immigration status with the federal government. Students receiving the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement must be verified. Any student that is not verified and documented by the institution will not receive the Scholarship.

I. All eligible independent and public institutions that participate in the program must verify the lawful presence in the US of any student who receives a Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

J. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

1. Institutional Student Information Record (ISIR) or affidavit documenting that the student is not in default or does not owe a refund on any state or federal financial aid

2. Affidavit documenting that the student has never been convicted of any felonies and has not been convicted of any second or subsequent alcohol/drug-related misdemeanor offense within the past academic year as stated under "Initial Eligibility" and "Duration and Renewal of Awards" Sections

3. Award notification

4. Institutional disbursements to student

5. Verification student is not in default and does not owe a refund or repayment

6. Student's residency status and citizenship status

7. Enrollment status and degree-seeking status

8. Verification of cumulative GPA and annual credit hours for renewal purposes

9. Verification from the institutional Disability Services Provider of student's disability and approval of reduced course-load requirement (if appropriate)

10. Military mobilization orders (if appropriate)

11. Verification student met fourteen credit hour requirement at the end of the first year of college enrollment for the 2007-08 freshman class and thereafter (Palmetto Fellows Scholarship Enhancement purposes only)

12. Verification from academic department of enrollment in a declared major in an eligible degree program (Palmetto Fellows Scholarship Enhancement purposes only).

13. Verification from the institution that lawful presence in the US, and has been verified.

K. It is the institution's responsibility to ensure that only eligible students receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

L. The student shall be required to provide a state recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-335. Duration and Renewal of Awards.

A. The Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement where applicable shall be initially awarded for one academic year. The institution shall adjust the amount of the Scholarship and Enhancement awards during the academic year in the event of a change in the student's eligibility.

B. Students selected as Palmetto Fellows must enter an eligible four-year independent or public institution no later than the fall term one year immediately following high school graduation. Students must be continuously enrolled at an eligible four-year institution. Students with a break in continuous full-time enrollment at a four-year institution or enrolling as a degree-seeking student at a two-year institution will forfeit the scholarship.

C. A Palmetto Fellows Scholarship may be renewed annually for no more than a total of eight terms (based on the date of initial college enrollment) toward the first bachelor's degree or a program of study that is structured

so as not to require a bachelor's degree and leads to a graduate degree or for no more than a total of ten terms (based on the date of initial college enrollment) toward the first approved five-year bachelor's degree. The Palmetto Fellows Scholarship Enhancement may not be awarded for no more than a total of six terms (based on the date of initial college enrollment) toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for no more than a total of eight terms (based on the date of initial college enrollment) toward the first approved five-year bachelor's degree. Students who have already been awarded their first bachelor or graduate degree are not eligible to receive the Palmetto Fellows Scholarship or the Palmetto Fellows Scholarship Enhancement. During the seventh or eighth term of attendance, the institution may prorate the Palmetto Fellow Scholarship and the Palmetto Fellows Scholarship Enhancement award amount, for the number of credit hours attempted for the current term of attendance, which must be the term of graduation for the student. Proration will be based on 12 credit hours (see section 62-330.B).

D. The institution is responsible for obtaining institutional certification of each recipient's cumulative grade point average and annual credit hours for the purposes of determining eligibility for award renewal. For the Palmetto Fellows Scholarship Enhancement, the institution must also obtain verification from the academic department of enrollment in a declared major in an eligible degree program.

E. By the end of the spring term each academic year, the institution must notify all Palmetto Fellows who have not met the continued eligibility requirements for the next academic year. The notification should include information regarding the student's ability to attend summer school in order to meet the continued eligibility requirements.

F. The eligible four-year independent or public institution is responsible for reporting to the Commission on Higher Education credit hours earned at the home institution only. Transfer credit hours cannot be reported by the home institution.

G. In order to retain eligibility for the Palmetto Fellows Scholarship after the initial year, the student must meet the following continued eligibility requirements:

1. Enroll and be continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student at the time of Scholarship disbursement;

2. Earn at least a 3.0 cumulative GPA at the home institution for graduation purposes by the end of each academic year;

3. Earn a minimum of thirty credit hours for graduation purposes by the end of each academic year. Exempted credit hours (such as AP, CLEP, etc.), credit hours earned before high school graduation, and credit hours earned the summer term immediately following high school graduation cannot be used to meet the annual credit hour requirement;

4. Certify each academic year that he/she has not defaulted and does not owe a refund or repayment on any federal or state financial aid. If a student has an Institutional Student Information Record (ISIR) or its equivalent on file, the ISIR information will be used to verify default status or refund/repayment owed. Students who have not completed the Free Application for Federal Student Aid (FAFSA) must have an affidavit on file to verify that he/she is not in default and does not owe a refund or repayment on any federal or state financial aid, including the state grants/scholarships, Pell Grant, Supplemental Educational Opportunity Grant, Federal Perkins or Stafford Loan; and

5. Certify each academic year that he/she has never been adjudicated delinquent, convicted or pled guilty or *nolo contendere* to any felonies and any second or subsequent alcohol/drug-related misdemeanor offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit to the home institution. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second or subsequent alcohol or drug-related misdemeanor offense is only

ineligible for the next academic year of enrollment at an eligible independent or public institution after the date of the adjudication, conviction or plea. If the adjudication, conviction or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student will continue to be eligible for the remainder of the academic year. However, the student will be ineligible for the Scholarship for the following academic year of enrollment. If a student completes a pretrial intervention program and his/her record is subsequently expunged, the charge will not affect Scholarship eligibility.

H. In order to retain eligibility for the Palmetto Fellows Scholarship Enhancement, a student must:

1. Be a Palmetto Fellow at the time the Scholarship Enhancement is disbursed;

2. Be enrolled and continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student in a declared major in an eligible degree program;

3. Be making satisfactory academic progress toward completion of his/her declared major;

4. Be enrolled in the second year, third year, fourth year or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution; and

5. Successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment), and credit hours earned during the summer session immediately prior to the student's date of initial college enrollment may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement. Palmetto Fellows who were already enrolled in at least their second year in the 2007-2008 academic year only are not required to meet the fourteen credit hour requirement at the end of their first/freshman year.

I. Any student who attempts to obtain or obtains a Palmetto Fellows Scholarship or Palmetto Fellows Scholarship Enhancement through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

62-340. Transfer of or Reapplication for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

A. Palmetto Fellows enrolled at an eligible four-year independent or public institution may transfer to another four-year eligible independent or public institution in South Carolina upon obtaining prior approval from the Commission on Higher Education, by submitting a transfer form, which is available on the Commission's Web site.

B. A student who applied for and was offered the Palmetto Fellows Scholarship as a senior in high school, but declined the award to attend an out-of-state four-year institution no later than the fall term one year immediately following high school graduation or a student who attends an out-of-state institution at any time during the eight eligible terms, must reapply if they transfer to an eligible four-year independent or public institution in South Carolina. The reapplication form is available on the Commission's Web site.

C. Transfer students and reapplication students are only eligible to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement for the remaining terms of eligibility (based on the date of initial college enrollment).

D. Transfer students and reapplication students must comply with all standards for continued eligibility as defined under the "Duration and Renewal of Awards" Section in order for their award to be eligible for transfer.

E. The eligible four-year independent or public institution is responsible for reviewing all Palmetto Fellows transferring to their institution to determine whether the students are eligible for the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

F. The eligible four-year independent or public institution is responsible for reporting to the Commission on Higher Education credit hours earned at their institution only. Transfer credit hours cannot be reported by the home institution.

62-345. Students with Disabilities.

A. Palmetto Fellows who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in the "Initial Eligibility" Section, except for the full-time enrollment requirement, in order to be eligible to receive funding. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. For renewal, Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all renewal requirements as defined in the "Duration and Renewal of Awards" Section, except for a student not meeting the annual credit hour requirement who is approved by the Disability Services Provider at the home institution to be enrolled in less than full-time status or less than the required annual credit hours for that academic year. Each academic year for award renewal, students must earn the required number of hours approved by the institutional Disability Services Provider at the home institution and earn a minimum 3.0 cumulative grade point average at the home institution for graduation purposes. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

C. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status or less than the required annual credit hours. It is the responsibility of transfer students and reapplication students to provide written documentation from the previous institutional Disability Services Provider.

D. Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 are eligible to receive up to the maximum number of available terms and available funds.

62-350. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs.

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive Palmetto Fellows Scholarship and Palmetto Fellow Scholarship Enhancement funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit. Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds must be paid directly to the student's account at the home institution. The amount awarded cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer funds to the institutions where students will participate in internships, cooperative work programs, travel study programs, or

National or International Student Exchange Programs. The home institution is responsible for funds according to the "Program Administration and Audits" Section.

C. Students who enroll in one academic term at the home institution and also enroll in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year must earn at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal the next academic year. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

D. For students enrolling in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that is approved by the home institution but does not award full-time transfer credit for the entire academic year, renewal for the next academic year will be based on the prior year's eligibility. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

E. Students enrolling in an internship, a cooperative work program, a travel study program, or National or International Student Exchange Program that are approved by the home institution during the academic year and did not use their entire eligibility for the Palmetto Fellows Scholarship or the Palmetto Fellows Scholarship Enhancement funds during this period shall be allowed to receive one term of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements). In order to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for the succeeding summer term, students must enroll in twelve credit hours at the home institution. In order to maintain eligibility for the next academic year for students who only attend summer school, the student must earn at least twelve credit hours by the end of the academic year. For students who enroll in summer school and one other term of the academic year, the student must earn a total of at least 27 credit hours by the end of the academic year. The student must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

F. The home institution will be responsible for obtaining official certification of the student's cumulative grade point average and annual credit hours earned for purposes of determining eligibility for Scholarship and Enhancement renewal for the next academic year. For purposes of Enhancement eligibility, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-351. Military Mobilization.

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused term(s) while mobilized during the succeeding summer term or at the end of the maximum terms of eligibility (provided the service member meets continued eligibility requirements). The service member must re-enroll in an eligible independent or public institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment. Reinstatement will be based upon the service member's eligibility at the time he/she was mobilized. If the service member re-enrolls after the twelve month period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for a minimum of one academic year may be eligible the next academic year, if they met the continued eligibility requirements at the end of the last academic year of attendance. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

C. Service members who are enrolled in college and are mobilized for one academic term must complete at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal for the next academic year. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

D. In order to receive the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for summer school for any unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution. For service members who enroll in summer school and one other term of the academic year, the service member must earn a total of at least twenty-seven credit hours by the end of the academic year. In order to maintain eligibility for the next academic year for service members who only attend summer school, the member must earn at least twelve credit hours by the end of the academic year. The service member must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

E. The home institution will be responsible for obtaining verification of military mobilization status, cumulative grade point average and annual credit hours for the purpose of determining eligibility to renew the Palmetto Fellows Scholarship for the next academic year. For purposes of the Palmetto Fellows Scholarship Enhancement, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-355. Appeals Procedures.

A. The Commission on Higher Education shall define the procedures for scholarship appeals.

B. A student who does not meet the continued eligibility criteria for renewal of the Palmetto Fellows Scholarship forfeits continued participation in the Program and may request an appeal based on extenuating circumstances.

C. A student is allowed to submit only one appeal each academic year.

D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal's application by the required deadline(s) will result in forfeiture of the scholarship.

E. A student who fails to submit an appeal by the required deadline will result in forfeiture of the award.

F. The Palmetto Fellows Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

G. Students cannot appeal solely on the loss of the Palmetto Fellows Scholarship Enhancement.

H. The Appeals Committee's decision is final.

62-360. Institutional Disbursement of Funds.

A. The institution will identify award amounts, which cannot exceed:

1. $6,700 the first/freshman year and $7,500 for the second year, third year, fourth year and fifth year (if applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

2. $2,500 for the second year, third year, fourth year and fifth year (if applicable) for the Palmetto Fellows Scholarship Enhancement. Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

3. For mid-year initial college enrollment (i.e. a student who starts college in the spring term), a student may receive a maximum of $3,350 for the spring term. Beginning the second academic year (i.e. the fall term) a student may receive up to $7,500 for the second year, third year, fourth year and fifth year (if applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

B. Half shall be awarded during the fall term and half during the spring term. Funds cannot be disbursed during the summer or any interim sessions except for disbursements made in accordance with the requirements of the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs" or "Military Mobilization" Sections. Palmetto Fellows may not be funded for more than a total of eight terms of study toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for more than a total of ten terms of study toward the first approved five-year degree. Palmetto Fellows Scholarship Enhancements may not be funded for more than a total of six terms toward the first bachelor's degree or a program of study that is structures so as not to require a bachelor's degree or for no more than a total of eight terms toward the first-approved bachelor's degree.

C. The Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement cannot be applied to remedial coursework, continuing education coursework, a second bachelor's degree or to graduate coursework, unless the graduate coursework is required as part of a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree as defined in the "Definitions" Section or the student is enrolled in one of the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Doctor of Pharmacy at the Medical University of South Carolina; 3) Doctor of Pharmacy at the University of South Carolina and 4) Doctor of Pharmacy at Presbyterian College. In the event of early graduation, the award is discontinued.

D. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year cannot be awarded the Palmetto Fellows Scholarship Enhancement until the next academic year. Additionally, students who change their major from an eligible degree program to an ineligible degree program during the same academic year will retain their Palmetto Fellows Scholarship Enhancement eligibility for the remainder of the current academic year.

E. The institution shall provide each Palmetto Fellow with an award notification for each academic year, which will contain the terms and conditions of the Scholarship and other financial aid awarded. Students will be notified of adjustments in financial aid due to changes in eligibility and/or over-award issues. The Commission on Higher Education, for documentation purposes, requires that each institution obtain verification of acceptance of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and terms for the awards.

F. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time degree-seeking student.

G. The institution must submit a request for funds and/or return of funds by the established deadline each term. The Commission will disburse funds to eligible independent and public institutions to be placed in each eligible student's account. In addition, a listing of eligible recipients by identification number with the award amounts must be sent to the Commission on Higher Education by the established deadline each term. At this time, any unused funds must be returned to the Commission immediately.

H. The Commission will disburse awards to the eligible four-year independent and public institutions to be placed in each eligible student's account.

I. The student shall be required to provide a state recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-365. Refunds and Repayments.

A. In the event a student who has been awarded the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement withdraws, is suspended from the institution, or drops below full-time status during any regular term of the academic year, institutions must reimburse the Program for the amount of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for the term in question pursuant to refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the award may be retained by the student pursuant to the refund policies of the institution.

C. In the event a student who has been awarded the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and has been identified as not being a SC resident at any time, the institution must reimburse funds to CHE for the time period the student was no longer a SC resident.

62-370. Program Administration and Audits.

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this Program with the eligible independent and public institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulation governing the Program, any audits, or other oversight as may be deemed necessary to monitor the expenditure of funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible independent and public institutions must abide by all Program policies, rules and regulations. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the Program.

C. The Chief Executive Officer at each eligible independent and public institution shall identify to the Commission on Higher Education an institutional representative who is responsible for the operation of the Program on the campus and will serve as the contact person for the Program. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the Program.

D. All eligible independent and public institutions that participate in the program must verify the lawful presence in the US of any student who receives a Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

E. The participating institution shall identify to the Commission on Higher Education an institutional representative who will be responsible for determining residency and lawful presence classification for the purposes of awarding the Palmetto Fellows Scholarship.

F. Independent and public institutions of higher learning in this, or any other state in the U.S., are prohibited from using the Palmetto Fellows Scholarship in programs that promote financial aid incentives or packages. Any mention of the Palmetto Fellows Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Palmetto Fellows Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

62-375. Suspension or Termination of Institutional Participation.

A. The Commission on Higher Education may review institutional administrative practices to determine compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with Program statutes, guidelines, rules or regulations, the Commission on Higher Education may suspend, terminate, or place certain conditions upon the institution's continued participation in the Program and require reimbursement to the Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation(s) may have occurred or are occurring at any eligible independent or public institution, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

Fiscal Impact Statement:

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

Statement of Rationale:

Revisions to the existing regulation for the Palmetto Fellow Scholarship Program and Palmetto Fellows Scholarship Enhancement are being considered to clarify the policies and procedures for administering the program and to update the information to allow a change in the Palmetto Fellows application process. In doing so, several definitions are updated, high school class ranking policies and transcripts requirements are clarified, and language was modified to reflect the current S.C. Uniform Grading Scale and Scholastic Aptitude Test (SAT) information. Additional changes were made to allow a Palmetto Fellow recipient to prorate their award during their final term of college enrollment. Lastly, to promote consistency among the state scholarship programs, there are additional changes being proposed to allow a Palmetto Fellow recipient to enroll at an eligible institution up to one year after high school graduation.

Document No. 4829
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-30. Guidelines Established.

Synopsis:

Regulation 65-30 provides for leave protection for pregnant employees, regardless of marital status.
Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 28, 2018.

Instructions:

Replace Regulation 65-30 as printed below.

Text:

65-30. Guidelines Established for accommodations arising from pregnancy, childbirth, and related medical conditions, including but not limited to lactation.

a. To deny an employee a reasonable accommodation when a medical need arises from pregnancy, childbirth or a related medical condition shall be an unfair discriminatory practice within the meaning of Section 1-13-80(A)(4)(a) of the South Carolina Human Affairs Law, unless the employer can demonstrate that the accommodation would pose an undue hardship on the operation of the business of the employer.

b. Accommodation requests shall apply to both married and unmarried pregnant employees.

c. An employer may be found in violation of 1-13-80(A)(4)(e) if it takes adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions. However, in order for the employee to prevail in demonstrating a violation, the evidence must show that it is more likely than not that retaliation has occurred. It is not the employer's burden to disprove the claim. Evidence of retaliation may include, for example, suspicious timing, verbal or written statements, falsity of the employer's proffered reason for the adverse action, or any other pieces of evidence which, when viewed together, may permit an inference of retaliatory intent.

d. Notice of the right to be free from discrimination or retaliation for medical needs arising from pregnancy, childbirth, or related medical conditions, shall be conspicuously posted at the employer's place of business. If no place of business is located in South Carolina, or if an employee works from home, then the employer shall notify employees of this right in writing.

Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-30.

Statement of Rationale:

Regulation 65-30, Guidelines Established, currently explains pregnancy discrimination in the context of maternity leave only. With the passage of the Pregnancy Accommodations Act, all accommodations (including leave) arising from pregnancy, childbirth, and related medical conditions, are to be assessed as reasonable accommodation requests under the Human Affairs Law. As such, the former regulatory language is now outdated and it should be updated to be in harmony with the statutory provisions.

Document No. 4830
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-235. Hearing Procedures (Review and Enforcement).

Synopsis:

Regulation 65-235 governs the requirements for the Agency's procedures during the course of a Fair Housing Law administrative hearing, to include when and where the hearing should be held, as well as the process for appealing a final decision of the agency.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 28, 2018.

Instructions:

Replace Regulation 65-235 as printed below.

Text:

65-235. Hearing Procedures (Review and Enforcement).

A. Date and place of hearing.

(1) The hearing shall commence not later than 120 days following the issuance of the complaint unless it is impracticable to do so. If the hearing cannot be commenced within this time period, the Commissioner shall notify in writing all parties of the reason for the delay.

(2) The hearing will be conducted at the Commission or at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or about to occur.

(3) The complaint issued will specify the time, date and place for the hearing. The Chief Hearing Commissioner may change the time, date or place of the hearing, or may temporarily adjourn or continue a hearing for good cause shown. If such a change is made or the hearing is temporarily adjourned, the Chief Hearing Commissioner shall give the parties at least five days notice of the revised time, date and place for the hearing, unless otherwise agreed by the parties.

B. Conduct of Hearing.

(1) The case in support of the complaint shall be presented before the panel by a commission attorney or by the aggrieved person or his attorney.

(2) The case in support of the respondent shall be presented before the hearing commissioners by the respondent or its attorney.

(3) Evidentiary matters.

(a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the court of common pleas shall be followed. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare their copy with the original.

(c) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Commission's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Commission's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

(d) No testimony or evidence shall be given or received at any hearing concerning any offers or counter offers made in an effort to conciliate any alleged unlawful housing practice.

(e) All testimony shall be given under oath or affirmation and records of the proceedings shall be made and kept.

(f) Any party may conduct cross examination.

(4) Stipulations. The parties may file stipulations as to facts, in which event the same shall be numbered and used at the hearing. In addition, oral stipulations may be made at the hearing and shall be included in the record of the hearing. Such stipulations shall not preclude the offering of additional evidence by any party. However, a stipulation may be withdrawn by any party in the event evidence is presented at the hearing which is inconsistent with the stipulation.

(5) Motions and objections. Motions made during a hearing and objections with respect to the conduct of a hearing, including objections to the introduction of evidence, shall be stated in writing or orally and shall be included in the record of the hearing.

(6) Oral arguments and briefs. The Chief Hearing Commissioner shall permit the parties or their attorneys to argue orally before the panel and to file briefs within such time limits as the Chief Hearing Commissioner may establish. Oral arguments shall not be included in the record unless the Chief Hearing Commissioner shall so direct or unless requested by any party.

(7) Public hearings. All Commission hearings shall be open to the public unless the Chief Hearing Commissioner for good cause directs a closed hearing.

(8) Waiver of hearing. With the consent in writing of the respondent and notice to all parties, an order may be entered without holding any hearing or the making of any findings of fact or conclusions of law.

C. Record of hearing.

The record of the hearing shall include:

(1) All pleadings, motions, intermediate rulings and depositions;

(2) All evidence received or considered;

(3) A statement of matters officially noticed;

(4) Questions and offers of proof, objections and rulings thereon;

(5) Proposed findings and exceptions; and

(6) Any decision, opinion or report by the presiding hearing commissioner.

D. Contents of Order.

(1) An Order of the Panel shall be in writing or stated in the record and shall separately set forth the findings of fact and conclusions of law of the panel, the Commission's final decision, and an opinion containing the reasons for said decision. Such decisions as to whether an unlawful housing practice occurred shall be reached by a majority vote of the panel. Concurring and dissenting opinions of individual hearing commissioners shall be included in the Order.

(2) If the panel finds that a respondent has engaged or is about to engage, in a discriminatory housing practice, the panel shall order such relief as may be appropriate, which may include, but is not limited to:

(a) Damages to the aggrieved person (including damages caused by humiliation and embarrassment);

(b) Injunctive or such other equitable relief as may be appropriate, which Order may not affect any contract, sale, encumbrance or lease consummated before the issuance of the decision that involved a bona fide purchaser, encumbrancer or tenant without actual knowledge of the issuance of a complaint.

(c) To vindicate the public interest assessment of a civil penalty against the respondent, not to exceed civil penalties permitted by the Federal Fair Housing Act, as amended.

E. Filing of Order.

(1) The parties shall be notified and provided a copy of the Order either by personal delivery or by registered or certified mail.

(2) All Orders shall be filed in the Commission office, Columbia, South Carolina, and a copy of all Orders shall be provided to the Attorney General.

F. Reconsideration of Order.

(1) Request for Reconsideration. After a hearing and the issuance of a final Order, the panel may, upon its own motion or upon application of any party or intervenor for good cause or whenever justice so requires or where an Order of determination or decision was made upon default of a party affected thereby, reconsider any

closed proceeding upon notice to all parties, intervenors and the Attorney General, and take such action as it may deem necessary.

(2) Time Limitation for Filing Reconsideration Request. No application for reconsideration shall be considered unless filed within fourteen days from the date the Order of the Commission was rendered.

G. Transcript of Record.

The Commission's copy of the written transcript of the record shall be available during the regular office hours of the Commission to the complainant and respondent for examination without cost, for the purpose of appeal to the Administrative Law Court from the order of the Commission. The Commission's copy of the testimony shall, in the discretion of the Commissioner or the Chairman, also be available to intervenors and other persons, for such purposes, to such an extent and for such fee as the Commissioner or the Chairman may determine.

H. Judicial Review and Enforcement of Final Decision.

(1) Judicial Review.

(a) Who May Apply. A party aggrieved by a Final Order of the Commission may seek judicial review of the Order pursuant to S.C. Code § 31-21-130 (N) or (O).

(b) Forum. A proceeding for judicial review may be brought within thirty days of issuance of the Order of the Commission in the Administrative Law Court.

(c) Procedures. A proceeding for judicial review is subject to the Administrative Procedures Act, S.C. Code § 1-23-10, et seq., and the Rules of the Administrative Law Court.

(2) Petitions for Enforcement.

(a) After 30 days from the date the Commission Order is issued, the Commission may file a petition for enforcement of its Order in the court of common pleas of the county in which the hearing occurred or where a person against whom the Order is entered resides or transacts business if the Commission believes judicial enforcement is necessary to ensure compliance with its Order.

(b) A petition for review filed pursuant to Section A above shall operate as a supersedeas for 30 days only, unless otherwise ordered by the court, and thereafter the respondent shall be required to comply with the Order of the Commission until the appeal is decided.

(c) If no request for review is filed, the Commission's petition for enforcement shall be granted upon a showing that a copy of the petition was served upon the party subject to the provisions of the Commission's Order.

Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-235.

Statement of Rationale:

Regulation 65-235, Hearing Procedures (Review and Enforcement), should be changed so that hearings may ordinarily be held at the Commission's sole location in Columbia, South Carolina. Additionally, the appropriate forum for judicial review of an administrative hearing decision is the Administrative Law Court of South Carolina (see S.C. Code Ann. §31-21-130(O)(2)). Finally, the numbering of the regulation needs correction for citation purposes.

Document No. 4828
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-24. Notices to be Posted.

Synopsis:

Regulation 65-24 states that State Agencies should, in conspicuous places, post notices for their employees regarding employee rights under the Human Affairs Law. With the passage of the South Carolina Pregnancy Accommodations Act, all employers are required to post notices describing the rights of employees found therein. This Regulation, therefore, needs to be updated to reflect those notice requirements.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 28, 2018.

Instructions:

Replace Regulation 65-24 as printed below.

Text:

65-24. Notices to be Posted.

Each employer shall post, keep posted, and maintained in conspicuous places upon their premises where notices to employees and applicants for employment are customarily posted a notice to be prepared and distributed by the Commission setting forth excerpts from and/or summaries of, pertinent provisions of the Human Affairs Law, and information pertinent to the filing of a complaint.

Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-24.

Statement of Rationale:

Regulation 65-24, Notices to be Posted, should be changed to assist employers with complying with the statutory changes of the Pregnancy Accommodations Act. That act requires conspicuous posting of written notice at the employer's place of business of an employee's right to be free from discrimination under the Act. As such, the regulation regarding Notices should be updated to reflect the expanded requirements of all employers, rather than merely state agencies. The Pregnancy Accommodations Act further states that "The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and applicants for employment about their rights and responsibilities under this item." Lastly, the Commission is authorized to promulgate "regulations requiring the posting of notices prepared or approved by the Commission." S.C. Code. Ann. § 1-13-70 (c).

Document No. 4835
DEPARTMENT OF INSURANCE
CHAPTER 69
Statutory Authority: 1976 Code Sections 1-23-110, 38-3-110, 38-13-80, 38-90-150, and 38-90-630

69-70. Annual Audited Financial Reporting Regulation.

Synopsis:

The Department is proposing to make changes to Regulation 69-70 to aid the Department's monitoring of the financial condition of insurers. These amendments are based upon the National Association of Insurance Commissioners (NAIC) Model Regulation which has been drafted to implement these changes. States must adopt the changes on or before January 1, 2020.

The Notice of Drafting was published in the *State Register* on September 28, 2018.

Instructions:

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

Text:

69-70. Annual Audited Financial Reporting Regulation.

(Statutory Authority: S.C. Code Sections 1-23-110, 38-3-110, 38-13-80, 38-90-150, and 38-90-630)

Section 1. Authority

This regulation is promulgated by the Director of Insurance (Director) of the South Carolina Department of Insurance (Department) pursuant to Sections 38-3-110, 38-13-80, 38-90-150 and 38-90-630 of the South Carolina Code of Laws.

Section 2. Purpose and Scope

A. The purpose of this regulation is to improve the Department's surveillance of the financial condition of insurers, as defined in Section 3, by requiring (1) an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants, (2) Communication of Internal Control Related Matters Noted in an Audit, and (3) Management's Report of Internal Control over Financial Reporting.

B. Every insurer shall be subject to this regulation. Insurers having direct premiums written in this state of less than $1,000,000 in any calendar year and less than 1,000 policyholders or certificate holders of direct written policies nationwide at the end of the calendar year shall be exempt from this regulation for the year (unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of $1,000,000 or more will not be so exempt. For purposes of this subsection, all premiums written or assumed by a captive insurer shall be deemed to be written in this state.

C. Foreign or alien insurers filing the Audited Financial Report in another state, pursuant to that state's requirement for filing of Audited Financial Reports, which has been found by the Director to be substantially similar to the requirements herein, are exempt from Sections 4 through 13 of this regulation if:

(1) A copy of the Audited Financial Report, Communication of Internal Control Related Matters Noted in an Audit, and the Accountant's Letter of Qualifications that are filed with the other state are filed with the Director in accordance with the filing dates specified in Sections 4, 11 and 12, respectively (Canadian insurers may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions, Canada).

(2) A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the Director within the time specified in Section 10.

D. Foreign or alien insurers required to file Management's Report of Internal Control over Financial Reporting in another state are exempt from filing the Report in this state provided the other state has substantially similar reporting requirements and the Report is filed with the commissioner of the other state within the time specified.

E. This regulation shall not prohibit, preclude or in any way limit the Director from ordering or conducting or performing examinations of insurers under the rules and regulations of the Department and the practices and procedures of the Department.

F.(1) Except as otherwise provided in this subsection, this regulation shall not apply to captive insurance companies other than captive insurers as defined in Section 3(A)(5). In the case of a conflict between a provision of Regulation 69-60 and a provision of this regulation, the latter controls.

(2) The Director may, by written notice, require a captive insurance company that is not otherwise subject to this regulation to comply with any provision or requirement of this regulation by making a specific finding that compliance is necessary for the Director to carry out statutory responsibilities. In arriving at this finding, the Director may consider the captive insurance company's business plan, including the nature of the risks insured, and other factors the Director considers advisable. Such a notice may be issued at any time and from time to time for a specified period or periods. Within thirty days from issuance of the notice, the captive insurance company may request in writing a hearing, pursuant to statute, on the requirement for compliance. The hearing shall be held in accordance with South Carolina law pertaining to administrative hearing procedures.

(3) Notwithstanding any provision of this regulation to the contrary, a captive insurance company made subject to this regulation by written notice pursuant to Section 2(F)(2) shall file its Audited Financial Report on or before the date that is six months following the last day of the captive insurance company's fiscal year end, provided that the Director may require an earlier filing than such date with ninety days advance notice to the captive insurance company. Extensions of the filing date may be granted by the Director for thirty-day periods upon a showing by the captive insurance company and its independent certified public accountant of the reasons for requesting an extension and determination by the Director of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the Director to make an informed decision with respect to the requested extension. If an extension of the filing date is granted, a similar extension of thirty days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

(4) Every captive insurance company required to file an annual Audited Financial Report by written notice pursuant to Section 2(F)(2) shall designate a group of individuals as constituting its Audit Committee, as defined in Section 3(A)(3). The Audit Committee of an entity that controls the captive insurance company may be deemed to be the captive insurance company's Audit Committee for purposes of this regulation at the election of the controlling person.

Section 3. Definitions

A. The terms and definitions contained herein are intended to provide definitional guidance as the terms are used within this regulation.

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which he or she is licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

(2) "Affiliate" of a specific person or a person "affiliated" with a specific person means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the specific person.

(3) "Audit Committee" means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, the Internal audit function of an insurer or group of insurers (if applicable), and external audits of financial statements of the insurer or group of insurers. The Audit Committee of any entity that controls a group of insurers may be deemed to be the Audit Committee for one or more of these controlled insurers solely for the purposes of this regulation at the election of the controlling person. Refer to Section 14(A)(5) for exercising this election. If an Audit Committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit Committee.

(4) "Audited Financial Report" means and includes those items specified in Section 5 of this regulation.

(5) "Captive insurer" means any captive insurance company licensed as a risk retention group, South Carolina coastal captive insurance company, special purpose financial captive, or other captive insurance company made subject to this regulation by written notice pursuant to Section 2(F)(2).

(6) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(7) "Independent board member" has the same meaning as described in Section 14(A)(3).

(8) "Insurer" includes any captive insurer as defined in Section 3(A)(5), health maintenance organization, title insurer, fraternal organization, burial association, other association, corporation, partnership, society, order, individual, or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and corporations.

(9) "Group of insurers" means those licensed insurers included in the reporting requirements of Title 38, Chapter 21 - Insurance Holding Company Regulatory Act, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting.

(10) "Internal audit function" means a person or persons that provide independent, objective and reasonable assurance designed to add value and improve an organization's operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

(11) "Internal control over financial reporting" means a process effected by an insurer's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in Section 5(B)(2) through 5(B)(7) of this regulation and includes those policies and procedures that:

(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in Section 5(B)(2) through 5(B)(7) of this regulation and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in Section 5(B)(2) through 5(B)(7) of this regulation.

(12) "SEC" means the United States Securities and Exchange Commission.

(13) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 (15 USC Section 7201 et seq.) and the SEC's rules and regulations promulgated thereunder.

(14) "Section 404 Report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in Section 3(A)(1).

(15) "SOX Compliant Entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002 (15 USC Section 7201 et seq.): (i) the pre-approval requirements of Section 201 (Section 10A(i) of the Securities Exchange Act of 1934) (15 USC Section 78a et seq.)); (ii) the Audit Committee independence requirements of Section 301 (Section 10A(m)(3) of the Securities Exchange Act of 1934 (15 USC Section 78a et seq.)); and (iii) the internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Section 4. General Requirements Related to Filing and Extensions for Filing of Annual Audited Financial Reports and Audit Committee Appointment

A. All insurers shall have an annual audit by an independent certified public accountant and shall file an Audited Financial Report with the Director on or before June 1 for the year ended December 31 immediately preceding. The Director may require an insurer to file an Audited Financial Report earlier than June 1 with ninety days advance notice to the insurer.

B. Extensions of the June 1 filing date may be granted by the Director for thirty-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting an extension and determination by the Director of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the Director to make an informed decision with respect to the requested extension.

C. If an extension is granted in accordance with the provisions in Section 4(B), a similar extension of thirty days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

D. Every insurer required to file an annual Audited Financial Report pursuant to this regulation shall designate a group of individuals as constituting its Audit Committee, as defined in Section 3. The Audit Committee of an entity that controls an insurer may be deemed to be the insurer's Audit Committee for purposes of this regulation at the election of the controlling person.

E. This section does not apply to a captive insurance company made subject to this regulation by written notice pursuant to Section 2(F)(2). Such a captive insurance company shall comply with the requirements of Section 2(F)(3) and 2(F)(4).

Section 5. Contents of Annual Audited Financial Report

A. The annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flow, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurer's state of domicile.

B. The annual Audited Financial Report shall include the following:

(1) Report of independent certified public accountant;

(2) Balance sheet reporting admitted assets, liabilities, capital and surplus;

(3) Statement of operations;

(4) Statement of cash flow;

(5) Statement of changes in capital and surplus;

(6) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Section 38-13-80 of the South Carolina Code of Laws with a written description of the nature of these differences;

(7) The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Director, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an Audited Financial Report, the comparative data may be omitted.

Section 6. Designation of Independent Certified Public Accountant

A. Each insurer required by this regulation to file an annual Audited Financial Report, within sixty days after becoming subject to the requirement, shall register with the Director in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in this regulation. Insurers not retaining an independent certified public accountant on the effective date of this regulation shall register the name and address of their retained independent certified public accountant not less than six months before the date when the first Audited Financial Report is to be filed.

B. The insurer shall obtain a letter from the accountant and file a copy with the Director stating that the accountant is aware of the provisions of the insurance code and the regulations of the insurance department of the state of domicile that relate to accounting and financial matters and affirming that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance department, specifying such exceptions as the accountant may believe appropriate.

C. If the accountant who was the insurer's accountant for the immediately preceding filed Audited Financial Report is dismissed or resigns, the insurer shall notify the Director within five business days of this event. The insurer shall also furnish the Director with a separate letter within ten business days of the above notification

stating whether in the twenty-four months preceding the event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with the opinion. The disagreements required to be reported in response to this section include those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer also in writing shall request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for the disagreement; and the insurer shall furnish the responsive letter from the former accountant to the Director together with its own.

Section 7. Qualifications of Independent Certified Public Accountant

A. The Director shall not recognize a person or firm as a qualified independent certified public accountant if the person or firm:

(1) Is not in good standing with the AICPA and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(2) Has either directly or indirectly entered into an agreement of indemnity or release from liability, collectively referred to as indemnification, with respect to the audit of the insurer.

B. Except as otherwise provided in this regulation, the Director shall recognize an independent certified public accountant as qualified as long as the accountant conforms to the standards of the profession, as contained in the AICPA Code of Professional Conduct and the regulations of the South Carolina Board of Accountancy, or similar code.

C. A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Chapter 27 of Title 38 of the South Carolina Code of Laws, the mediation or arbitration provisions shall operate at the option of the statutory successor.

D. The lead or coordinating audit partner having primary responsibility for the audit may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same insurer or its insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the Director for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least thirty days before the end of the calendar year. The Director may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(2) Premium volume of the insurer; or

(3) Number of jurisdictions in which the insurer transacts business.

E. The insurer shall file, with its annual statement filing, the approval for relief from Subsection D with the states that it is licensed in or doing business in and with the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC. A captive insurer is not required to file the approval for relief from Subsection D with the NAIC if the captive insurer is not required to file its annual statement with the NAIC.

F. The Director shall not recognize as a qualified independent certified public accountant or accept any annual Audited Financial Report prepared in whole or in part by any person who:

(1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961 et seq., or any dishonest conduct or practices under federal or state law;

(2) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this regulation; or

(3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this regulation.

G. The Director, pursuant to statute, may hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for

purposes of expressing his or her opinion on the financial statements in the annual Audited Financial Report made pursuant to this regulation and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this regulation.

H. The Director shall not recognize as a qualified independent certified public accountant or accept an annual Audited Financial Report prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services:

(1) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) Financial information systems design and implementation;

(3) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(4) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met:

(a) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(b) The insurer has competent personnel (or engages a third-party actuary) to estimate the reserves for which management takes responsibility; and

(c) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(5) Internal audit outsourcing services;

(6) Management functions or human resources;

(7) Broker or dealer, investment adviser, or investment banking services;

(8) Legal services or expert services unrelated to the audit; or

(9) Any other services that the Director determines, by regulation, are impermissible.

I. In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The principles are that the accountant cannot function in the role of management, cannot audit their own work, and cannot serve in an advocacy role for the insurer.

J. Insurers having direct written and assumed premiums of less than $100,000,000 in any calendar year may request an exemption from Subsection H. The insurer shall file with the Director a written statement discussing the reasons why the insurer should be exempt from these provisions. An exemption may be granted if the Director finds, upon review of this statement, that compliance with this regulation would constitute a financial or organizational hardship upon the insurer.

K. A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in Subsection H or that do not conflict with Subsection I, only if the activity is approved in advance by the Audit Committee, in accordance with Subsection L.

L. All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be pre-approved by the Audit Committee. The pre-approval requirement is waived with respect to non-audit services if the insurer is a SOX compliant entity or a direct or indirect wholly-owned subsidiary of a SOX compliant entity or:

(1) The aggregate amount of all such non-audit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided;

(2) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and

(3) The services are promptly brought to the attention of the Audit Committee and approved prior to the completion of the audit by the Audit Committee or by one or more members of the Audit Committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the Audit Committee.

M. The Audit Committee may delegate to one or more designated members of the Audit Committee the authority to grant the pre-approvals required by Subsection L. The decisions of any member to whom this authority is delegated shall be presented to the full Audit Committee at each of its scheduled meetings.

N. The Director shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This section shall only apply to partners and senior managers involved in the audit. An insurer may make application to the Director for relief from the above requirement on the basis of unusual circumstances.

O. The insurer shall file, with its annual statement filing, the Director's letter granting relief from Subsection N with the states in which it is licensed or doing business and with the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC. A captive insurer is not required to file the Director's letter granting relief from Subsection N with the NAIC if the captive insurer is not required to file its annual statement with the NAIC.

Section 8. Consolidated or Combined Audits

A. An insurer may make written application to the Director for approval to include in its Audited Financial Report audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies that utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

(1) Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the worksheet;

(2) Amounts for each insurer subject to this section shall be stated separately;

(3) Noninsurance operations may be shown on the worksheet on a combined or individual basis;

(4) Explanations of consolidating and eliminating entries shall be included; and

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual Statements of the insurers.

Section 9. Scope of Audit and Report of Independent Certified Public Accountant

Financial statements furnished pursuant to Section 5 shall be examined by the independent certified public accountant. The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. In accordance with Auditing (AU) Section 319 of the AICPA Professional Standards, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant shall obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU Section 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to Section 17, the independent certified public accountant should consider (as that term is defined in Statements on Auditing Standards (SAS) No. 102 of the AICPA Professional Standards, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration shall be given to the procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Section 10. Notification of Adverse Financial Condition

A. The insurer required to furnish the annual Audited Financial Report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its Audit Committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of the South Carolina Code of Laws as of that date. An insurer that has received a report pursuant to this paragraph shall forward a copy of the report to the Director within five business days of receipt of the report and shall provide the independent certified public accountant

making the report with evidence of the report being furnished to the Director. If the independent certified public accountant fails to receive the evidence within the required five business day period, the independent certified public accountant shall furnish to the Director a copy of its report within the next five business days.

B. No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if the statement is made in good faith in compliance with Subsection A.

C. If the accountant, subsequent to the date of the Audited Financial Report filed pursuant to this regulation, becomes aware of facts that might have affected his or her report, the Director notes the obligation of the accountant to take such action as prescribed in AU 561 of the AICPA Professional Standards, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report.

Section 11. Communication of Internal Control Related Matters Noted in an Audit

A. In addition to the annual Audited Financial Report, each insurer shall furnish the Director with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. Such communication shall be prepared by the accountant within sixty days after the filing of the annual Audited Financial Report, and shall contain a description of any unremediated material weakness (as the term material weakness is defined in SAS No. 112 of the AICPA Professional Standards, Communicating Internal Control Related Matters Identified in an Audit, or its replacement) as of December 31 immediately preceding (so as to coincide with the Audited Financial Report discussed in Section 4(A)) in the insurer's Internal control over financial reporting identified by the accountant during the course of the audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

B. The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

C. The insurer is expected to maintain information about significant deficiencies communicated by the independent certified public accountant. The information should be made available to the examiner conducting a financial examination for review and kept in a manner as to remain confidential.

Section 12. Accountant's Letter of Qualifications

A. The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual Audited Financial Report, a letter stating:

(1) That the accountant is independent with respect to the insurer and conforms to the standards of their profession as contained in the AICPA's Code of Professional Conduct and pronouncements of its Financial Accounting Standards Board and the South Carolina Board of Accountancy, or similar code;

(2) The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this regulation shall be construed as prohibiting the accountant from utilizing such staff as deemed appropriate where use is consistent with the standards prescribed by generally accepted auditing standards;

(3) That the accountant understands the annual Audited Financial Report and that its opinion thereon will be filed in compliance with this regulation and that the Director will be relying on this information in the monitoring and regulation of the financial position of insurers;

(4) That the accountant consents to the requirements of Section 13 of this regulation and that the accountant consents and agrees to make available for review by the Director, or the Director's designee or appointed agent, the workpapers, as defined in Section 13;

(5) A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the AICPA; and

(6) A representation that the accountant is in compliance with the requirements of Section 7 of this regulation.

Section 13. Definition, Availability and Maintenance of Independent Certified Public Accountants Workpapers

A. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of insurer documents

and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her audit of the financial statements of an insurer and which support the accountant's opinion.

B. Every insurer required to file an Audited Financial Report pursuant to this regulation, shall require the accountant to make available for review by Department examiners, all workpapers prepared in the conduct of the accountant's audit and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the Department or at any other reasonable place designated by the Director. The insurer shall require that the accountant retain the audit workpapers and communications until the Department has filed a report on examination covering the period of the audit but no longer than seven years from the date of the audit report.

C. In the conduct of the aforementioned periodic review by the Department examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the department. Such reviews by the department examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the Department.

Section 14. Requirements for Audit Committees

A. This section shall not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

(1) The Audit Committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the Audited Financial Report or related work pursuant to this regulation. Each accountant shall report directly to the Audit Committee.

(2) The Audit committee of an insurer or Group of insurers shall be responsible for overseeing the insurer's internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill their responsibilities if required by Section 15 of this Regulation.

(3) Each member of the Audit Committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to Subsection (A)(6) of this Section and Section 3(A)(3).

(4) In order to be considered independent for purposes of this section, a member of the Audit Committee may not, other than in his or her capacity as a member of the Audit Committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the Audit Committee and be designated as independent for Audit Committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(5) If a member of the Audit Committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the Director, may remain an Audit Committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(6) To exercise the election of the controlling person to designate the Audit Committee for purposes of this regulation, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the Director by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.

(7) The Audit Committee shall require the accountant that performs for an insurer any audit required by this regulation to timely report to the Audit Committee in accordance with the requirements of SAS No. 114 of the AICPA Professional Standards, The Auditor's Communication with those Charged with Governance, or its replacement, including:

(a) All significant accounting policies and material permitted practices;

(b) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(c) Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(8) If an insurer is a member of an insurance holding company system, the reports required by Subsection (A)(7) may be provided to the Audit Committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the Audit Committee.

(9) The proportion of independent Audit Committee members shall meet or exceed the following criteria:

Prior Calendar Year Direct Written and Assumed Premiums		
$0-$300,000,000	Over $300,000,000 - $500,000,000	Over $500,000,000
No minimum requirements. See also Note A and B.	Majority (50% or more) of members shall be independent. See also Note A and B.	Supermajority of members (75% or more) shall be independent. See also Note A.

Note A: The Director has authority afforded by state law to require the insurer's board to enact improvements to the independence of the Audit Committee membership if the insurer is in a RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than $500,000,000 in prior year direct written and assumed premiums are encouraged to structure their Audit Committees with at least a supermajority of independent Audit Committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

(10) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $500,000,000 may make application to the Director for a waiver from the Section 14 requirements based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from Section 14 with the states that it is licensed in or doing business in and the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Section 15. Internal Audit Function Requirements

A. Exemption – An insurer is exempt from the requirements of this section if:

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $500,000,000; and

(2) If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $1,000,000,000.

B. Function – The Insurer or group of insurers shall establish an internal audit function providing independent, objective and reasonable assurance to the Audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance shall be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

C. Independence – In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. Specifically, the internal audit function will not defer ultimate judgment on audit matters to others, and shall appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships.

D. Reporting – The head of the internal audit function shall report to the audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

E. Additional Requirements – If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level.

Section 16. Conduct of Insurer in Connection with the Preparation of Required Reports and Documents

A. No director or officer of an insurer shall, directly or indirectly:

(1) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this regulation; or

(2) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this regulation.

B. No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this regulation if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

C. For purposes of Subsection B, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant:

(1) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the Director, generally accepted auditing standards, or other professional or regulatory standards);

(2) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;

(3) Not to withdraw an issued report; or

(4) Not to communicate matters to an insurer's Audit Committee.

Section 17. Management's Report of Internal Control over Financial Reporting

A. Each insurer required to file an Audited Financial Report pursuant to this regulation that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of $500,000,000 or more shall prepare a report of the insurer's or group of insurers' Internal Control Over Financial Reporting, as these terms are defined in Section 3. The report shall be filed with the Director along with the Communicating Internal Control Related Matters Identified in an Audit described under Section 11. Management's Report of Internal Control Over Financial Reporting shall be as of December 31 immediately preceding.

B. Notwithstanding the premium threshold in Subsection A, the Director may require an insurer to file Management's Report of Internal Control Over Financial Reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in S.C. Code Ann. Sections 35-5-120, 38-9-150, 38-9-360, and 38-9-440.

C. An insurer or a group of insurers that is

(1) directly subject to Section 404;

(2) part of a holding company system whose parent is directly subject to Section 404;

(3) not directly subject to Section 404 but is a SOX compliant entity; or

(4) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity; may file its or its parent's Section 404 Report and an addendum in satisfaction of this Section 17 requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 5(B)(2) through 5(B)(7) of this regulation) were included in the scope of the Section 404

Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 5(B)(2) through 5(B)(7) of this regulation) excluded from the Section 404 Report. If there

are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file (i) a Section 17 report, or (ii) the Section 404 Report and a Section 17 report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.

D. Management's Report of Internal Control Over Financial Reporting shall include:

(1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management shall not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there are one or more unremediated material weaknesses in its internal control over financial reporting;

(6) A statement regarding the inherent limitations of internal control systems; and

(7) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).

E. Management shall document and make available upon financial condition examination the basis upon which its assertions, required in Subsection D, are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(1) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(2) Management's Report on Internal Control over Financial Reporting, required by Subsection A , and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the Director.

Section 18. Exemptions

A. Upon written application of an insurer, the Director may grant an exemption from compliance with any provision or requirement of this regulation if the Director finds, upon review of the application, that compliance with this regulation would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from this regulation, the insurer may request in writing a hearing, pursuant to statute, on its application for an exemption. The hearing shall be held in accordance with South Carolina law pertaining to administrative hearing procedures.

B. Domestic insurers retaining a certified public accountant on the effective date of this regulation shall comply with this regulation for the year ending December 31, 2019 and each year thereafter unless the director permits otherwise

C. Domestic insurers retaining

If an insurer or Group of insurers that is exempt from the Section 15 requirements no longer qualifies for that exemption, it shall have one year after the year the threshold is exceeded to comply with the requirements of this article.

Section 19. Canadian and British Companies

A. For Canadian and British insurers, the annual Audited Financial Report shall be defined as the annual statement of total business on the form filed by such companies with their supervision authority duly audited by an independent chartered accountant.

B. For such insurers, the letter required in Section 6B shall state that the accountant is aware of the requirements relating to the annual Audited Financial Report filed with the Director pursuant to Section 4 and shall affirm that the opinion expressed is in conformity with those requirements.

Section 20. Effective Dates

A. Unless otherwise noted, the requirements of this regulation shall become effective for the reporting period ending December 31, 2010 and each year thereafter. An insurer or group of insurers not required to file a report because its total written premium is below the threshold that subsequently becomes subject to the reporting requirements shall have two years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file the report. Likewise, an insurer acquired in a business combination shall have two calendar years following the date of acquisition or combination to comply with the reporting requirements.

B. The requirements of Section 7D shall become effective for audits of the year beginning January 1, 2010 and thereafter.

C. The requirements of Section 14 shall become effective on January 1, 2010. An insurer or group of insurers that is not required to have independent Audit Committee members or only a majority of independent Audit Committee members (as opposed to a supermajority) because the total direct written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one year following the year the threshold is exceeded (but not earlier than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

Section 21. Severability Provision

If any section or portion of a section of this regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.

Fiscal Impact Statement:

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 69-70.

Statement of Rationale:

The Department is proposing to make changes to Regulation 69-70 to add the definition of “internal audit function” and to add certain internal audit function requirements. These amendments will aid the Department’s monitoring of the financial condition of insurers. These amendments are based upon the National Association of Insurance Commissioners (NAIC) Model Regulation which has been drafted to implement these changes. States must adopt the changes on or before January 1, 2020.

Document No. 4836

DEPARTMENT OF INSURANCE
CHAPTER 69
Statutory Authority: 1976 Code Sections 1-23-110, 38-3-110, and 38-21-430

69-80. Corporate Governance Annual Disclosure Regulation.

Synopsis:

This new Corporate Governance Annual Disclosure Regulation is based upon the (NAIC) Model Regulation #306. States must adopt the changes on or before January 1, 2020 to maintain their accreditation. This new regulation requires an annual corporate disclosure to its lead regulator. In the disclosure, insurers document information about the corporate governance structure framework and disclose policies and practices used by the board of directors on critical issues. This information will enable the director to gain and maintain an understanding of an insurer's corporate governance framework which should enable the Department to provide more effective oversight.

The Notice of Drafting was published in the *State Register* on September 28, 2018

Instructions:

Print the new regulation as shown below.

Text:

69-80. Corporate Governance Annual Disclosure Regulation.

(Statutory Authority: 1976 Code Sections 1-23-110, 38-3-110, and 38-21-430)

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Section I. Authority.

These regulations are promulgated pursuant to the authority granted by Section 38-21-430 of the Insurance Law.

Section II. Purpose.

The purpose of these regulations is to set forth the procedures for filing and the required contents of the Corporate Governance Annual Disclosure (CGAD), deemed necessary by the director to carry out the provisions of Section 38-21-400 et seq.

Section III. Definitions.

A. "Director." The South Carolina Director of Insurance or his designee.
B. "Insurance group." For the purpose of this Act, the term "insurance group" shall mean those insurers and affiliates included within an insurance holding company system as defined in Section 38-21-400 et seq.

C. "Insurer." The term "insurer" shall have the same meaning as set forth in Regulation 69-3, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

D. "Senior Management." The term "senior management" shall mean any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall Include, for example and without limitation, the Chief Executive Officer ("CEO"), Chief Financial Officer ("CFO"), Chief Operations Officer ("COO"), Chief Procurement Officer ("CPO"), Chief Legal Officer ("CLO"), Chief Information Officer ("CIO"), Chief Technology Officer ("CTO"), Chief Revenue Officer ("CRO"), Chief Visionary Officer ("CVO"), or any other "C" level executive.

Section IV. Filing Procedures.

A. An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by the Corporate Governance Annual Disclosure Act, Section 38-21-400 et seq., shall, no later than June 1 of each calendar year, submit to the director a CGAD that contains the information described in Section 5 of these regulations.

B. The CGAD must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's Board of Directors (hereafter "Board") or at the appropriate committee thereof.

C. The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these regulations and is permitted to customize the CGAD to provide the most relevant information necessary to permit the director to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group.

D. For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level and/or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

E. Notwithstanding Subsection A of this Section, and as outlined in Section 3 of the Corporate Governance Annual Disclosure Model Act, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC. In these instances, a copy of the CGAD must also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request.

F. An insurer or insurance group may comply with this section by referencing other existing documents (e.g., ORSA Summary Report, Holding Company Form B or F filings, Securities and Exchange Commission (SEC) Proxy Statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in Section 5. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator.

Section V. Contents of Corporate Governance Annual Disclosure.

A. The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices.

B. The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following.

(1) The Board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and

(2) The duties of the Board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the Board's leadership is structured, including a discussion of the roles of Chief Executive Officer (CEO) and Chairman of the Board within the organization.

C. The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:

(1) How the qualifications, expertise and experience of each Board member meet the needs of the insurer or insurance group.

(2) How an appropriate amount of independence is maintained on the Board and its significant committees.

(3) The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance.

(4) How the insurer or insurance group identifies, nominates and elects members of the Board and its committees. The discussion should include, for example:

(a) Whether a nomination committee is in place to identify and select individuals for consideration

(b) Whether term limits are placed on directors

(c) How the election and re-election processes function.

(d) Whether a Board diversity policy is in place and if so, how it functions.

(5) The processes in place for the Board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any Board or committee training programs that have been put in place).

D. The insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following factors:

(1) Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:

(a) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.

(b) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.

(2) The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers for example:

(a) Compliance with laws, rules, and regulations; and

(b) Proactive reporting of any illegal or unethical behavior.

(3) The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. Elements to be discussed may include, for example:

(a) The Board's role in overseeing management compensation programs and practices.

(b) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid.

(c) How compensation programs are related to both company and individual performance over time;

(d) Whether compensation programs include risk adjustment and how those adjustments are incorporated in to the program for employees at different levels;

(e) Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restarted or otherwise adjusted;

(f) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.

(4) The insurer's or insurance group's plans for CEO and Senior Management succession.

E. The insurer or insurance group shall describe the processes by which the Board, its committees and Senior Management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of:

(1) How oversight and management responsibilities are delegated between the Board, its committees and Senior Management;

(2) How the Board is kept informed of the insurer's strategic plans, the associated risks, and steps that Senior Management is taking to monitor and manage those risks;

(3) How reporting responsibilities are organized for each critical risk area. The description should allow the director to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board. This description may include, for example, the following critical risk areas of the insurer:

(a) Risk management processes (An ORSA Summary Report filer may refer to its ORSA Summary Report pursuant to the Risk Management and Own Risk and Solvency Assessment Model Act);

(b) Actuarial function;

(c) Investment decision-making processes;

(d) Reinsurance decision-making processes;

(e) Business strategy/finance decision-making processes;

(f) Compliance function;

(g) Financial reporting/ internal auditing; and

(h) Market conduct decision-making processes.

Section VI. Severability Clause.

If any provision of these regulations, or the application thereof to any person or circumstance, is hold invalid, such determination shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to that end the provision of these regulations are severable.

Fiscal Impact Statement:

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 69-80.

Statement of Rationale:

This proposed regulation is based upon the (NAIC) Model Regulation #306. States must adopt the changes on or before January 1, 2020 to maintain their accreditation. This new regulation requires an annual corporate disclosure to its lead regulator. In the disclosure, insurers document information about the corporate governance structure framework and disclose policies and practices used by the board of directors on critical issues. This information will enable the director to gain and maintain an understanding of an insurer's corporate governance framework which should enable the Department to provide more effective oversight.

Document No. 4862

DEPARTMENT OF LABOR, LICENSING AND REGULATION

CHAPTER 10

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

10-33. Board of Examiners for Licensure of Professional Counselors and Marital and Family Therapists.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, on behalf of the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists proposes to amend its regulations to add a fee for the licensure of addiction counselors as required by South Carolina Code Section 40-75-220 and the passage of Act 249 of 2018 and to update existing fees. A scrivener's error is corrected and a term is modified as required by Act 249 of 2018.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

10-33. Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists.

The Board shall charge the following fees:

A. Application Fee – Application and fee go to Center for Credentialing Education (CCE) to be reviewed and approved.

B.	Initial License Fee:	
	1. Associate:	$150
	2. Professional Counselors:	$150
	3. Marriage and Family Therapists:	$150
	4. Psycho-Educational Specialists:	$150
	5. Addiction Counselors:	$150
	6. Professional Counselor Supervisors:	$100
	7. Marriage and Family Therapy Supervisors:	$100
C.	Biennial license renewal:	
	1. Professional Counselors:	$150
	2. Marriage and Family Therapists:	$150
	3. Psycho-Educational Specialists:	$150
	4. Professional Counselor Supervisors:	$100
	5. Marriage and Family Therapy Supervisors:	$100
D.	Late Renewal Penalty (1 through 3 months):	$50
E.	Reinstatement Fee:	$300 + renewal fee
F.	Examination Fee:	
	1. Professional Counselors: paid to National Board for Certified Counselors (NBCC)	
	2. Marriage and Family Therapists: paid to Professional Examination Service (PES)	
G.	License Verification:	$5
H.	License verification to another state:	$5
I.	Name change and new license card:	$10
J.	Copy of file	$10
K.	Duplicate license:	
	1. Wall certificate:	$25

2. License card:	$10
L. Returned check charge:	$30 (or as otherwise established by law as administrative costs for returned checks)

Fiscal Impact Statement:

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

Statement of Rationale:

In 2018, the General Assembly passed Act 249 requiring the state, by and through the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists, to regulate Addiction Counselors. South Carolina Code Section 40-1-50(B) requires the department (LLR) to establish initial fees for revenue-funded boards, and the Counselors' practice act, in South Carolina Code Section 40-75-200 requires payment of an appropriate fee for licensure. Two scrivener's errors were corrected, and a term was changed as required by Act 249 of 2018. The Board is also updating existing fees.

Document No. 4844
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 10
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-35-50

10-21. Long Term Health Care Administrators Board.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, on behalf of the Board of Long Term Health Care Administrators, proposes to amend Regulation 10-21(D) to delete the fee for labels for license lists, delete the fee for criminal background checks, and reduce the license list fee from $20 to $10.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

10-21. Long Term Health Care Administrators Board.

The Board shall charge the following fees:

A. Nursing Home Administrator's Fee Schedule:

1. Application for Licensure:	$200
2. Application for Re-examination:	$135
3. Provisional License:	$500
4. Initial Licensure period:	$175
5. Annual Renewal:	
a. Active Status:	$175
b. Inactive Status:	$135

c. Late Fee:	$50
B. Community Residential Care Facility Administrator's Fee Schedule	
1. Application for Licensure:	$100
2. Application for Re-examination:	$65
3. Provisional License:	$250
4. Initial Licensure Period:	$150
5. Annual Renewal:	
a. Active Status:	$150
b. Inactive Status:	$115
c. Late Fee:	$50
C. Dual Administrators:	
1. Application for Licensure:	$200
2. Application for Re-examination:	$65
3. Provisional License:	$600
4. Initial Licensure:	$255
5. Annual Renewal:	
a. Active Status:	$325
b. Inactive Status:	$250
c. Late Fee:	$50
D. Charges for Both Classes of Administrators:	
1. Reinstatement of a Lapsed License (Penalty per month, not to exceed twelve months):	
a. 1st and 2nd month:	$50
b. 3rd - 12th month:	$25
2. Transfer of Information to Another State:	$50
3. Record Change:	$25
4. Record Change and Reissue of Certificate:	$50
5. Copy of Licensee Lists:	$10
6. NSF Fee:	$30
7. Copy of Regulations:	$5
8. Application for Approval of Continuing Education:	
a. By a Sponsoring Organization:	$100
b. For a repeat presentation:	$25
c. By an Individual:	$15

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will reduce and remove fees.

Document No. 4846
DEPARTMENT OF LABOR, LICENSING AND REGULATION
AUCTIONEERS' COMMISSION
CHAPTER 14

Statutory Authority: 1976 Code Section 40-6-40

14-7. Professional Standards.
14-8. Falsification of Documents.
14-9. Declaratory Rulings.
14-10. Promulgation, Amendment, Repeal of Rules.
14-14. Duplicate Wall or Pocket Card License; Fees.
14-17. License Certification.

Synopsis:

The South Carolina Auctioneers' Commission proposes to repeal: R.14-7, 14-8, 14-14 and 14-17 as they are duplicative of statute; R.14-9 as it is not supported by statute; and R.14-9 and 14-10 as they imply an appearance before the Commission is not guaranteed to the public upon request.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

Repeal regulations as shown below. All other items and sections remain unchanged.

Text:

14-7. Repealed.

14-8. Repealed.

14-9. Repealed.

14-10. Appeal.
A person aggrieved by a final action of the Commission may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court.

14-14. Repealed.

14-17. Repealed.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will repeal unnecessary and duplicative regulations and regulations that are not supported by statute.

Document No. 4847
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-800. International Building Code.

Synopsis:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 8, of the Code of Regulations regarding the International Building Code.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

Article 8
International Building Code

2018 International Building Code Modification Summary
(Statutory Authority: 1976 Code Section 6-9-40)

8-800. International Building Code.
NOTE-This article is based upon the International Building Code, 2018 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.
This code is identical to the 2018 Edition of the International Building Code except for the following modifications:

8-801. IBC Section 202.
Chapter 2 Definitions
The following two definitions are added to those appearing in Section 202 of the 2018 International Building Codes:

Vapor Retarder, Ground Contact: Ground contact vapor retarder class shall be defined using the requirements of ASTM E1745, Class A, B, or C – Standard specification for water vapor retarders used in contact with soil or granular fill under concrete slabs.

Primitive Camp Structure: shall include any structure permanent or temporary in nature, used for outdoor camping (transient), open on at least one side with no fully enclosed habitable spaces, less than 400 square feet under roof, and not classified as a residential occupancy due to lack of electrical, plumbing, mechanical and sprinkler systems.

8-802 IBC Section 303.4 Assembly Group A-3
Add to the listing of A-3 occupancies the following use: Structures, without a commercial kitchen, used in agritourism activity as defined by S.C. Code Ann. 46-53-10(1).

8-803. IBC Section 312.1 General
The term “Primitive Camp Structure” is added to the list of examples in this section.

8-804. IBC Section 706.1 General.

Fire walls shall be constructed in accordance with Sections 706.2 through 706.11. Each portion of a building separated by one or more firewalls may be considered a separate building. The extent and location of such *fire walls* shall provide a complete separation. Where a *fire wall* separates occupancies that are required to be separated by a *fire barrier* wall, the most restrictive requirements of each separation shall apply.

8-805. IBC Section 903.2.9 Group S-1.
An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 12,000 square feet (1115 m2).
2. A Group S-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m2).
4. A Group S-1 fire area used for the storage of commercial motor vehicles where the fire area exceeds 5,000 square feet (464 m2).
5. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses where the fire area exceeds 2,500 square feet (232 m2). This section, when acceptable to the Authority Having Jurisdiction, does not apply to self-storage facilities that are single-story, fire area(s) less than 12,000 square feet, and the building is only accessible from exterior entry points and is not provided with interior hallways, spaces or corridors.

8-806. IBC Section 1016.2 Egress through intervening spaces.
Egress through intervening spaces shall comply with this section.

1. *Exit access* through an enclosed elevator lobby is permitted. Access to not less than one of the required *exits* shall be provided without travel through the enclosed elevator lobbies required by Section 3006. Where the path of *exit access* travel passes through an enclosed elevator lobby, the level of protection required for the enclosed elevator lobby is not required to be extended to the *exit* unless direct access to an *exit* is required by other sections of this code.
2. Egress from a room or space shall not pass through adjoining or intervening rooms or areas, except where such adjoining rooms or areas and the area served are accessory to one or the other, are not a Group H occupancy and provide a discernible path of egress travel to an *exit*.

Exception: *Means of egress* are not prohibited through adjoining or intervening rooms or spaces in a Group H, S or F occupancy where the adjoining or intervening rooms or spaces are the same or a lesser hazard occupancy group.

3. An *exit access* shall not pass through a room that can be locked to prevent egress.
4. *Means of egress* from *dwelling units* or sleeping areas shall not lead through other sleeping areas, toilet rooms or bathrooms.

Exception: Dwelling units or sleeping areas in R1 and R2 occupancies shall be permitted to egress through other sleeping areas serving adjoining rooms that are part of the same dwelling unit or guest room.

5. Egress shall not pass through kitchens, storage rooms, closets or spaces used for similar purposes.

Exceptions:

1. *Means of egress* are not prohibited through a kitchen area serving adjoining rooms constituting part of the same *dwelling unit* or *sleeping unit*.
2. *Means of egress* are not prohibited through stockrooms in Group M occupancies where all of the following are met:

2.1 The stock is of the same hazard classification as that found in the main retail area.
2.2 Not more than 50 percent of the *exit access* is through the stockroom.
2.3 The stockroom is not subject to locking from the egress side.
2.4 There is a demarcated, minimum 44-inch wide (1118mm) *aisle* defined by a wall not less than 42 inches high or similar construction that will maintain the required width and lead directly from the retail area to the exit without obstructions.

8-807. IBC Section 1803.2 Investigation required.
Geotechnical investigations shall be conducted in accordance with Sections 1803.3 through 1803.5.

Exceptions:

1. The *building official* shall be permitted to waive the requirement for a geotechnical investigation where satisfactory data from adjacent areas is available that demonstrates an investigation is not necessary for any of the conditions in Sections 1803.5.1 through 1803.5.6 and Sections 1803.5.11.
2. For single story buildings not more than 5,000 sq ft and not more than 30 ft in height, a site specification investigation report is not required if the seismic design category is determined by the design professional in accordance with Chapter 20 of ASCE 7.

8.808. IBC Section 1907.1 General.
The thickness of concrete floor slabs supported directly on the ground shall not be less than 3 ½ inches (89mm). A 10-mil (0.010 inch) polyethylene ground contact vapor retarder with joints lapped not less than 6 inches (152 mm) shall be placed between the base course or subgrade and the concrete floor slab, or other *approved* equivalent methods or materials shall be used to retard vapor transmission through the floor slab.

8.809. IBC Section 2303.2.2 Other means during manufacture
For wood products impregnated with chemicals by other means during manufacture, the treatment shall be an integral part of the manufacturing process of the wood product. The treatment shall provide permanent protection to all surfaces of the wood product.

8.810. IBC Section Appendix H Signs.
Adopt Appendix H.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will reflect modifications made to the 2018 International Building Codes adopted by the Building Codes Council.

Document No. 4865
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-900. International Fire Code.

Synopsis:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 9, of the Code of Regulations regarding the International Fire Code.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

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

Text:

ARTICLE 9
INTERNATIONAL FIRE CODE

2018 International Fire Code Modification Summary

8-900. International Fire Code.
NOTE-This article is based upon the International Fire Code, 2018 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.
This code is identical to the 2018 Edition of the International Fire Code except for the following modifications:

8-901. IFC Section 202 General definitions.
Recreational Fire: An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial to include sky lanterns, cooking, warmth or similar purpose.

8-902. IFC Section 202 General definitions.
Primitive Camp Structure: Shall include any structure permanent or temporary in nature, used for outdoor camping (transient), open on at least one side with no fully enclosed habitable spaces, less than 400 square feet under roof, and not classified as a residential occupancy due to lack of electrical, plumbing, mechanical and sprinkler systems.

8-903. IFC Section 202 General definitions.
Add to the listing of A-3 occupancies the following use: Structures, without a commercial kitchen, used in agritourism activity as defined by S.C. Code Ann. 46-53-10(1).

8-904. IFC Table 315.7.6(1) Pile Separation Distances
Use this table instead of the table in the 2018 IFC.

TABLE 315.7.6(1)
SEPARATION DISTANCE BETWEEN WOOD PALLET STACKS AND BUILDINGS

WALL CONSTRUCTION	OPENING TYPE	WOOD PALLET SEPARATION DISTANCT (FEET)		
		Less than 50 pallets	51 to 200 pallets	Over 200 pallets
Masonry	None	2	2	2
Masonry	Fire-rated glazing with open sprinklers	2	5	20
Masonry	Fire-rated glazing	5	10	20
Masonry	Plain glass with sprinklers	5	10	20
Noncombustible	None	5	10	20
Wood with open sprinklers		5	10	20
Wood	None	15	30	90
Any	Plain glazing	15	30	90

8-905. IFC Section 503.2.1 Dimensions.
Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

8-906. IFC Section 507.1 Required water supply.
An *approved* water supply capable of supplying the required fire flow for fire protection shall be provided to premises on which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction to meet the necessary fire flow as determined by the fire code official. Where public water supply is inadequate or not available, an approved alternate water source meeting the fire flow requirements shall be provided. Fire flow performance tests shall be witnessed by the *fire code official* or representative prior to final approval. Exception. One and two family dwellings, including attached or detached accessory structures.

8-907. IFC Section 507.5.1 Where required.

Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet (152 m) from a hydrant on a fire apparatus access road, as measured by an *approved* route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the *fire code official*.

Location. The location and number of hydrants shall be designated by the fire official, but in no case shall the distance between installed fire hydrants exceed 1000 feet (305 m). Fire hydrants shall be located within 500 feet (152 m) of all fire fighter access points when measured along the normal routes of fire department vehicle access which conforms to the requirements of Section 503. No point of the exterior of a building shall be located more than 500 feet (152 m) from a hydrant accessible to fire department vehicles as provided in Section 503.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).
2. For buildings equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet (183 m).

8-908. IFC Section 901.6.3 Records.

Records of all system inspections, tests, and maintenance required by the referenced standards shall be maintained. Copies of the inspection reports shall be sent to the local jurisdiction by the servicing vendor as prescribed by the Fire Code Official.

8-909. IFC Section 903.2.9 Group S-1.

An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 12,000 square feet (1115 m^2).
2. A Group S-1 fire area is located more than three stories above grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m^2).
4. A Group S-1 fire area used for the storage of commercial motor vehicles where the fire area exceeds 5,000 square feet (464 m^2).
5. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses where the fire area exceeds 2,500 square feet (232m^2).

Exception: This section, when acceptable to the Authority Having Jurisdiction, does not apply to self-storage facilities that are single-story fire areas less than 12,000 square feet, and the building is only accessible from exterior entry points and is not provided with interior hallways, spaces or corridors.

8-910. IFC 1016.2 Egress through intervening spaces.

Egress through intervening spaces shall comply with this section.

1. *Exit access* through an enclosed elevator lobby is permitted. Access to not less than one of the required *exits* shall be provided without travel through the enclosed elevator lobbies required by Section 3006 of the International Building Code. Where the path of *exit* access travel passes through an enclosed elevator lobby, the level of protection required for the enclosed elevator lobby is not required to be extended to the *exit* unless direct access to an *exit* is required by other sections of this code.
2. Egress from a room or space shall not pass through adjoining or intervening rooms or areas, except where such adjoining rooms or areas and the area served are accessory to one or the other, are not a Group H occupancy and provide a discernible path of egress travel to an *exit*.

Exception: *Means of egress* are not prohibited through adjoining or intervening rooms or spaces in a Group H, S, or F occupancy where the adjoining or intervening rooms or spaces are the same or a lesser hazard occupancy group.

3. An *exit access* shall not pass through a room that can be locked to prevent egress.
4. *Means of egress* from *dwelling units* or sleeping areas shall not lead through other sleeping areas, toilet rooms or bathrooms.

Exception: Dwelling units or sleeping areas in R-1 and R-2 occupancies shall be permitted to egress through other sleeping areas serving adjoining rooms that are part of the same dwelling unit or guest room.

5. Egress shall not pass through kitchens, storage rooms, closets, or spaces used for similar purposes.

Exceptions:

1. *Means of egress* are not prohibited through a kitchen area serving adjoining rooms constituting part of the same *dwelling unit* or *sleeping unit*.

2. *Means of egress* are not prohibited through stockrooms in Group M occupancies where all of the following are met:

2.1 The stock is of the same hazard classification as that found in the main retail area.

2.2 Not more than 50 percent of the *exit access* is through the stockroom.

2.3 The stockroom is not subject to locking from the egress side.

2.4 There is a demarcated, minimum 44-inch-wide (1118 mm) *aisle* defined by a wall not less than 42 inches high or similar construction that will maintain the required width and lead directly from the retail area to the *exit* without obstructions.

8-911. IFC Section 2307.4 Location of dispensing operations and equipment.
The point of transfer for LP-gas dispensing operations shall be separated from buildings and other structures in accordance with NFPA 58 Table 6.7.2.1 and IFC Section 2306.7.

Exception: The point of transfer for LP-gas dispensing operations need not be separated from canopies that are constructed in accordance with the International Building Code and that provide weather protection for the dispensing equipment.

LP-gas containers shall be located in accordance with Chapter 61. LP-gas storage and dispensing equipment shall be located outdoors and in accordance with Section 2306.7.

8-912. IFC Section 2307.7 Public fueling of motor vehicles.
"Self-service LP-gas dispensing systems, including key, code and card lock dispensing systems, shall be limited to the filling of permanently mounted containers providing fuel to the LP-gas powered vehicle", is removed.

8-913. IFC Section 6101.1 Scope.

Storage, handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses shall comply with this chapter and NFPA 58. Properties of LP-gas shall be determined in accordance with Annex B of NFPA 58.

8-914. IFC Section 6103.2.1.1 Use in basement, pit or similar location.

LP-gas containers complying 6103.2.2 shall be permitted to be used in basements and above grade underfloor spaces provided such location has adequate ventilation for equipment utilization. Equipment with attached cylinders shall not be left unattended or stored in such location after use. LP-gas container storage shall comply with Section 6109.7. Self contained torch assemblies may be used in accordance with 6103.2.1.6.

8-915. IFC Section 6103.2.1.6 Use with self-contained assemblies.

Portable LP-gas containers are allowed to be used to supply approved self contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of 2.7 pounds (1.2 kg).

8-916. IFC Section 6106.1 Attendants.

Dispensing of LP-gas shall be performed by a qualified attendant that meets the requirements of this section and NFPA 58 Section 4.4.

8-917. IFC Section 6107.4 Protecting containers from vehicles.

Exception: An alternative method may be used that meets the intent of this section with the approval of the AHJ.

8-918. IFC Section 6109.13 Protection of containers.

LP-gas containers shall be stored within a suitable enclosure or otherwise protected against tampering. Vehicle protections shall be required as required by the fire code official in accordance with IFC 312 or NFPA 58 8.4.2.2.

8-919. IFC Section 6110.1 Temporarily out of service.

Containers not connected for service at customer locations. LP-gas containers at customer locations that are not connected for service shall comply with all of the following:

1. Have LP-gas container outlets, except relief valves, closed and plugged or capped.
2. Be positioned with the relief valve in direct communication with the LP-gas container vapor space.

8-920. IFC Section 6111.2.1 Near residential, educational and institutional occupancies and other high-risk areas.

Separation distance requirements may be reduced to not less than 50 feet as approved by the fire code official, based upon a completed fire safety analysis and consideration of special features such as topographical conditions, capacity of the LP-gas vehicle and the capabilities of the local fire department. The Office of the State Fire Marshall will provide an approved fire safety analysis to be utilized for this specific requirement.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will reflect modifications made to the 2018 International Fire Code adopted by the Building Codes Council.

Document No. 4866
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-1000. International Fuel Gas Code.

Synopsis:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 10, of the Code of Regulations regarding the International Fuel Gas Code.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

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

Text:

ARTICLE 10
INTERNATIONAL FUEL GAS CODE

2018 International Fuel Gas Code Modification Summary

8-1000. International Fuel Gas Code.

NOTE-This article is based upon the International Fuel Gas Code, 2018 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.
This code is identical to the 2018 Edition of the International Fuel Gas Code except for the following modifications:

8-1001. IFGC Section 401.10 Third-party testing and certification.
All piping, tubing and fittings shall comply with the applicable referenced standards, specifications and performance criteria of this code, including Section 403 of the IFGC and corresponding sections.

8-1002. IFGC Section 412.4 Listed equipment.
Hoses, hose connections, vehicle fuel connections, dispensers, LP-gas pumps and electrical equipment used for LP-gas shall comply with the requirements of NFPA 58.

8-1003. IFGC Section 412.6 Location.
In addition to the fuel dispensing requirements of the International Fire Code, the point of transfer for dispensing operations shall be 25 feet (7620 mm) or more from buildings having combustible exterior wall surfaces, buildings having noncombustible exterior wall surfaces that are not part of a 1-hour fire-resistance-rated assembly or buildings having combustible overhangs, property which could be built on, and railroads; and at least 10 feet (3048 mm) from public streets or sidewalks and buildings having noncombustible exterior wall surfaces that are part of a fire-resistance-rated assembly having a rating of 1 hour or more; and 5 feet from driveways.
Exception: 1. The point of transfer for dispensing operations need not be separated from canopies providing weather protection for the dispensing equipment constructed in accordance with the International Building Code. Liquefied petroleum gas containers shall be located in accordance with the International Fire Code. 2. The separation from driveways is not required where the driveway serves the vehicle fuel dispenser.
Liquefied petroleum gas storage and dispensing equipment shall be located outdoors and in accordance with the International Fire Code.

8-1004. IFGC Section 412.8.3 Vehicle impact protection.
Exception: An alternative method may be used that meets the intent of this section with the approval of the AHJ.

8-1005. IFGC Section 413.5 Private fueling of motor vehicles.
Self-service LP-gas dispensing systems, including key, code and card lock dispensing systems, shall not be open to the public. In addition to the requirements of the International Fire Code, self-service LP-gas dispensing systems shall be provided with an emergency shutoff switch located within 100 feet (30 480 mm) of, but not less than 20 feet (6096 mm) from, dispensers and the owner of the dispensing facility shall ensure the safe operation of the system and the training of users.

8-1006. IFGC Section 505.1.1 Commercial cooking appliances vented by exhaust hoods.
Exception: An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will reflect modifications made to the 2018 International Fuel Gas Code adopted by the Building Codes Council.

Document No. 4869
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-1300. International Mechanical Code.

Synopsis:

The South Carolina Building Codes Council proposes to add Chapter 8, Article 13, of the Code of Regulations to incorporate modifications to the International Mechanical Code.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

Print regulation as shown below.

Text:

ARTICLE 13
INTERNATIONAL MECHANICAL CODE

2018 International Mechanical Code Modification Summary

8-1300. International Mechanical Code.
NOTE-This article is based upon the International Mechanical Code, 2018 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.
This code is identical to the 2018 Edition of the International Mechanical Code except for the following modifications:

8-1301. IMC Section 504.8.2 Duct Installation.
Exhaust ducts shall be supported at intervals not to exceed 8 feet and within 16 inches of each side of a joint that is not installed in a vertical orientation, secured in place, making rigid contact with the duct at not less than 4 equally spaced points or 2/3rds contact if strap is used. All brackets and strapping must be noncombustible. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. The overlap shall comply with Section 603.4.2. Ducts shall not be joined with screws or similar devices that protrude into the inside of the duct. Exhaust ducts shall be sealed in accordance with Section 603.9. Where dryer ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation without substantial deformation. The duct work may be ovalized as long as it terminates in an approved duct box. Minor imperfections located on the duct, in areas other than along the seam, do not constitute a violation of this section.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulations will incorporate modifications to the 2018 International Mechanical Code as adopted by the South Carolina Building Codes Council.

Document No. 4868
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-1200. International Residential Code.

Synopsis:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, of the Code of Regulations to incorporate modifications to the International Residential Code.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

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

Text:

ARTICLE 12
INTERNATIONAL RESIDENTIAL CODE

2018 International Residential Code Modification Summary

8-1200. International Residential Code.
NOTE-This article is based upon the International Residential Code, 2018 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.

This code is identical to the 2018 Edition of the International Residential Code except for the following modifications:

8-1201. IRC Section R202 Definitions
Accepted Engineering Practice - The performance design of structures and/or structural elements that vary from prescriptive design methods of this code. Such design shall be made with accepted design standards by a South Carolina licensed Architect or Engineer as permitted by existing state law.

8-1202. IRC Figure R302.1 Exterior walls.
Exception 6. a. The minimum fire separation distance for improvement constructed on a lot shown on: [i] a recorded bonded or final subdivision plat, or [ii] a sketch plan, site plan, plan of phased development or preliminary plat approved by the local governing authority which was recorded or approved prior to the implementation of IRC 2012 which shows or describes lesser setbacks than the fire separation distances provided in Table R302.1(1) shall be equal to the lesser setbacks, but in no event less than 3 feet.

b. The minimum fire separation distance for improvements constructed on a lot where the local governing authority has prior to the implementation of IRC 2012: [i] accepted exactions or issued conditions, [ii] granted a special exception, [iii] entered into a development agreement, [iv] approved a variance, [v] approved a planned development district, or [vi] otherwise approved a specific development plan which contemplated or provided for setbacks less than the fire separation distances provided in Table R302.1(1) shall be equal to the lesser setback, but in no event less than 3 feet.

8-1203. IRC Section R302.5.1 Opening protection.

Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches (35 mm) thick, or 20-minute fire-rated doors.

8-1204. Section R.302.13 Fire Protection of Floors.

Floor assemblies that are not required elsewhere in this code to be fire-resistance rated, shall be provided with a 1/2-inch (12.7 mm) gypsum wallboard membrane, 5/8-inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member. Penetrations or openings for ducts, vents, electrical outlets, lighting, devices, luminaires, wires, speakers, drainage, piping and similar openings or penetrations shall be permitted.

Exceptions:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with Section P2904, NFPA 13D, or other approved equivalent sprinkler system.

2. Floor assemblies located directly over a crawl space.

3. Portions of floor assemblies shall be permitted to be unprotected where complying with the following:

3.1. The aggregate area of the unprotected portions does not exceed 80 square feet (7.4 m2) per story.

3.2. Fireblocking in accordance with Section R302.11.1 is installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.

4. Wood floor assemblies using dimension lumber or structural composite lumber equal to or greater than 2-inch by 10-inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.

8-1205. IRC Section R303.4 Mechanical ventilation.

The Building Codes Council does not adopt IRC Section R303.4.

8-1206. IRC Figure R307.1 Minimum Fixture Clearances.

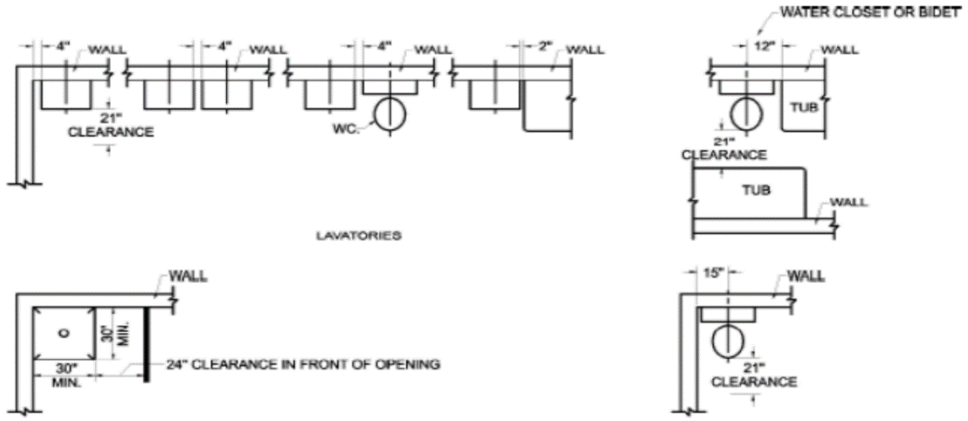


FIGURE 307.2
MINIMUM FIXTURE CLEARANCES

8-1207. IRC Section R311.7.5.1 Risers.

The maximum riser height shall be 73/4 inches (196 mm). The maximum riser height for masonry stairs shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.

Exception: The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

8-1208. IRC Section R312.1.1 Where required.

Guards shall be located along open-sided walking surfaces of all decks, porches, balconies, stairs, ramps and landings that are located more than 30 inches measured vertically to the floor or grade below and at any point where a downward slope exceeds 3V:12H within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a guard.

8-1209. IRC Section R312.2 Window Fall Protection

The Building Codes Council does not adopt IRC Section R312.2.

The Building Codes Council does not adopt IRC Section R312.2.1.

The Building Codes Council does not adopt IRC Section 312.2.2.

8-1210. IRC Section R313 Automatic Fire Sprinkler Systems.

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall not be required to be installed in townhouses when constructed in accordance with R302.2.

Exception: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.1.1 Design and installation. Automatic residential fire sprinkler systems when installed for townhouses shall be designed and installed in accordance with Section P2904 or NFPA 13D.

R313.2 One- and two-family dwellings automatic fire systems. An automatic residential fire sprinkler system shall not be required to be installed in one- and two-family dwellings.

Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems when installed shall be designed and installed in accordance with Section P2904 or NFPA 13D.

8-1211. IRC Section R315.2.2 Alterations, Repairs and Additions.

Exception 2. Installation, alteration or repairs of plumbing or mechanical systems other than installation or alteration of fuel-fired systems and appliances.

8-1212. IRC Section R317.1.1 Field treatment.

Field-cut ends, notches and drilled holes of preservative-treated wood shall be treated in the field in accordance with AWPA M4 or in accordance with the preservative-treated wood product manufacturer's recommendations.

8-1213. IRC Section 318.1 Subterranean termite control methods.

A seventh item is added which reads:

7. Treatments may be conducted as outlined in Section 27-1085 of the Rules and Regulations for the Enforcement of the SC Pesticide Control Act and enforced by the Clemson University Department of Pesticide Regulation.

8-1214. IRC 318.4 Foam Plastic Protection.

In areas where the probability of termite infestation is "very heavy" as indicated in Figure R301.2(7), extruded and expanded polystyrene, polyisocyanurate and other foam plastics shall not be installed on the exterior face or under interior or exterior foundation walls or slab foundations located below *grade*. The clearance between foam plastics installed above *grade* and exposed earth shall be not less than 6 inches (152 mm). For crawl space applications, foam plastic shall be installed so as to provide a termite inspection gap of no less than 6 inches along the top of the foundation wall and foundation sill plate.

Exceptions:

1. Buildings where the structural members of walls, floors, ceilings and roofs are entirely of noncombustible materials or pressure-preservative-treated wood.
2. On the interior side of *basement walls.*

8-1215. IRC Section R319.1 Address ID.

Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

8-1216. IRC Section R322.1 General.

Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in Table R301.2(1), and substantial improvement and repair of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24. Where there is a conflict with this code and a locally adopted flood ordinance, the more restrictive shall apply.

8-1217. IRC Section R404.1.9.2 Masonry piers supporting floor girders.

Masonry piers supporting wood beams and girders sized in accordance with Tables R602.7(1) and R602.7(2) shall be permitted in accordance with this section. Piers supporting girders for interior bearing walls shall be filled solidly with grout or type M or S mortar and shall have a minimum nominal dimension of 8 inches (203 mm) and a maximum height not exceeding 10 times the nominal thickness from the top of footing to bottom of sill plate or girder. Piers supporting beams and girders for exterior bearing walls shall be filled solidly with grout or type M or S mortar; shall contain a minimum of one #4 (13 mm) dowel mid-depth; and shall have a minimum nominal dimension of 8 inches (203 mm) and a maximum height of 4 times the nominal thickness from top of

footing to bottom of sill plate or girder unless it can be shown by accepted engineering practice that there is sufficient foundation wall along the foundation line to resist the imposed lateral loads, in which case the maximum height shall not exceed 10 times the nominal thickness. Girders and sill plates shall be anchored to the pier or footing in accordance with Section R403.1.6 or Figure R404.1.5(1). Floor girder bearing shall be in accordance with Section R502.6.

8-1218. IRC Section R408.3 Under Floor Space.

Ventilation openings in under-floor spaces specified in Sections R408.1 and R408.2 shall not be required where the following items are provided:

1. Exposed earth is covered with a continuous vapor retarder meeting ASTME 1745 Class A. Joints of the vapor retarder shall overlap by 6 inches (152 mm) and shall be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (152 mm) up the stem wall and shall be attached and sealed to the stem wall or insulation.

2. One of the following is provided for the under-floor space:

2.1 Continuously operated mechanical exhaust ventilation at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m^2) of *crawl space* floor area, including an air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.11 of this code.

2.2 *Conditioned air* supply sized to deliver at a rate equal to 1 cubic foot per minute (0.47L/s) for each 50 square feet (4.7 m^2) of under-floor area, including a return air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.11 of this code.

2.3 Plenum in existing structures complying with Section M1601.5, if under-floor space is used as a plenum.

2.4 Dehumidification sized to provide 70 pints (33 liters) of moisture removal per day for every 1,000 square feet (93m^2) of *crawl space* floor area.

8-1219. IRC Section R408.4 Access.

Access shall be provided to all under-floor spaces. Access openings through the floor shall be a minimum of 18 inches by 24 inches (457 mm by 610 mm). Openings through a perimeter wall shall be not less than 16 inches by 24 inches (407 mm by 610 mm). Where any portion of the through-wall access is below grade, an areaway not less than 16 inches by 24 inches (407 mm by 610 mm) shall be provided. The bottom of the areaway shall be below the threshold of the access opening. See Section M1305.1.4 for access requirements where mechanical equipment located under floors.

8-1220. IRC Section R502.11.4 Truss design.

Truss design drawings. Truss design drawings, prepared in compliance with Section R502.11.1, shall be provided to the building official at the time of inspection. Truss design drawings shall be provided with the shipment of trusses delivered to the job site. Truss design drawings shall include at a minimum the information specified as follows:

1. Slope or depth, span and spacing.
2. Location of all joints.
3. Required bearing widths.
4. Design loads as applicable:
   4.1. Top chord live load.
   4.2. Top chord dead load.
   4.3. Bottom chord live load.
   4.4. Bottom chord dead load.
   4.5. Concentrated loads and their points of application.
   4.6. Controlling wind and earthquake loads.

5. Adjustments to lumber and joint connector design values for conditions of use.
6. Each reaction force and direction.
7. Joint connector type and description, e.g., size, thickness or gauge, and the dimensioned location of each joint connector except where symmetrically located relative to the joint interface.

8. Lumber size, species and grade for each member.
9. Connection requirements for:
9.1. Truss-to-girder-truss;
9.2. Truss ply-to-ply; and
9.3. Field splices.
10. Calculated deflection ratio and/or maximum description for live and total load.
11. Maximum axial compression forces in the truss members to enable the building designer to design the size, connections and anchorage of the permanent continuous lateral bracing. Forces shall be shown on the truss drawing or on supplemental documents.
12. Required permanent truss member bracing location.

8-1221. IRC Section R506.2.3 Vapor Retarder.

A 6-mil (0.006 inch; 152 mum) polyethylene or approved vapor retarder with joints lapped not less than 6 inches (152 mm) shall be placed between the concrete floor slab and the base course or the prepared subgrade where no base course exists.

Exception: The vapor retarder is not required for the following:
1. Utility buildings and other unheated accessory structures.
2. For unheated storage rooms having an area of less than 70 square feet (6.5 m2) and carports.
3. Driveways, walks, patios and other flatwork not likely to be enclosed and heated at a later date.
4. Where approved by the building official, based on local site conditions.

8-1222. IRC Section R606.7 Piers.

The unsupported height of masonry piers shall not exceed 10 times their least dimension. Where structural clay tile or hollow concrete masonry units are used for isolated piers to support beams and girders, the cellular spaces shall be filled solidly with grout or Type M or S mortar, except that unfilled hollow piers shall be permitted to be used if their unsupported height is not more than four times their least dimension. Where hollow masonry units are solidly filled with grout or Type M or S mortar, the allowable compressive stress shall be permitted to be increased as provided in Table R606.9.

8-1223. IRC Section R802.10.1 Wood Truss Design.

Truss design drawings, prepared in conformance to Section R802.10.1 shall be provided to the building official at the time of their inspection. Truss design drawings shall be provided with the shipment of trusses delivered to the job site. Truss design drawings shall include, at a minimum, the following information:
1. Slope or depth, span and spacing.
2. Location of all joints.
3. Required bearing widths.
4. Design loads as applicable.
4.1. Top chord live load (as determined from Section R301.6).
4.2. Top chord dead load.
4.3. Bottom chord live load.
4.4. Bottom chord dead load.
4.5. Concentrated loads and their points of application.
4.6. Controlling wind and earthquake loads.
5. Adjustments to lumber and joint connector design values for conditions of use.
6. Each reaction force and direction.
7. Joint connector type and description such as size, thickness or gage and the dimensioned location of each joint connector except where symmetrically located relative to the joint interface.
8. Lumber size, species and grade for each member.
9. Connection requirements for:

9.1. Truss to girder-truss.
9.2. Truss ply to ply.
9.3. Field splices.
10. Calculated deflection ratio and/or maximum description for live and total load.

11. Maximum axial compression forces in the truss members to enable the building designer to design the size, connections and anchorage of the permanent continuous lateral bracing. Forces shall be shown on the truss design drawing or on supplemental documents.

12. Required permanent truss member bracing location.

8-1224. IRC Section R905.2.8.5 Drip Edge.

A drip edge shall be provided at eaves and rake edges of asphalt shingle roofs where required by the manufacturer.

8-1225. IRC Section M1411.6 Insulation of refrigerant piping.

Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation have a thermal resistivity of at least R 2.5 hr. ft 2 F/Btu and having external surface permeance not exceeding 0.05 perm [2.87 ng/(s m2 Pa)] when tested in accordance with ASTM E 96.

8-1226. IRC Chapter 11 Energy Efficiency.

The Building Codes Council does not adopt IRC Chapter 11.

8-1227. IRC Section M1411.8 Locking access port caps.

The Building Codes Council does not adopt IRC Section M1411.8.

8-1228. IRC Section M1502.3 Duct termination.

Exhaust ducts shall terminate on the outside of the building. Exhaust duct terminations shall be in accordance with the dryer manufacturer's installation instructions. Exhaust duct terminations shall be equipped with a backdraft damper. Screens shall not be installed at the duct termination.

8-1229. IRC Section M1502.4.2 Duct Installation.

Exhaust ducts shall be supported at intervals not to exceed 8 feet and within 16 inches of each side of a joint that is not installed in a vertical orientation, secured in place, making rigid contact with the duct at not less than 4 equally spaced points or 2/3rds contact if strap is used. All brackets or strapping must be noncombustible. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. The overlap shall comply with Section M1601.4.2. Ducts shall not be joined with screws or similar devices that protrude into the inside of the duct. Exhaust ducts shall be sealed in accordance with Section M1601.4.1. Where dryer ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation without substantial deformation. The duct work may be ovalized as long as it terminates in an approved duct box. Minor imperfections located on the duct, in areas other than along the same, do not constitute a violation.

8-1230. IRC Section M1502.4.5 Duct length.

The maximum length of a clothes dryer exhaust duct shall not exceed 35 feet (10668 mm) from the dryer location to the wall or roof termination.

8-1231. IRC Section M1503.4 Makeup air required.

Exhaust hood systems capable of exhausting more than 400 cubic feet per minute (0.19m3/s) shall be mechanically or naturally provided with makeup air at a rate approximately equal to the exhaust air rate more than 400 cubic feet per minute. Such makeup air systems shall be equipped with not less than one damper. Each damper shall be a gravity damper or an electrically operated damper that automatically opens when the exhaust system operates. Dampers shall be accessible for inspection, service, repair and replacement without removing permanent construction or any other ducts not connected to the damper being inspected, serviced, repaired or replaced.

8-1232. IRC Section M1504.3 Exhaust Openings.

Air exhaust openings shall terminate as follows:

1. Not less than 3 feet (914 mm) from property lines.
2. Not less than 3 feet (914 mm) from gravity air intake openings, operable windows and doors.

Exception: Bathrooms, water closets shower spaces.

8-1233. IRC Section M1601.4.1 Joints, seams and connections.

Longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards-Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. Joints, longitudinal and transverse seams, and connections in ductwork shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic- plus-embedded-fabric systems, liquid sealants or tapes.

Tapes and mastics used to seal fibrous glass ductwork shall be listed and labeled in accordance with UL 181A and shall be marked "181A-P" for pressure-sensitive tape, "181 A-M" for mastic or "181 A-H" for heat-sensitive tape. Tapes and mastics used to seal metallic and flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181 B-FX" for pressure-sensitive tape or "181 BM" for mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked 181B-C. Crimp joints for round metallic ducts shall have a contact lap of not less than 1 inch (25 mm) and shall be mechanically fastened by means of not less than three sheet-metal screws or rivets equally spaced around the joint. Closure systems used to seal all ductwork shall be installed in accordance with the manufacturers' instructions.

Exceptions:

1. Spray polyurethane foam shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams and locking-type joints.

8-1234. IRC Section G2418.2 Design and Installation.

Piping shall be supported with pipe hooks, pipe straps, bands, brackets, hangers, or building structural components suitable for the size of piping, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration.

8-1235. IRC Section P2503.6 Shower Liner Test.

Where shower floors and receptors are made water tight by the application of materials required by Section P2709.2, the completed liner installation shall be tested. Shower liner shall be tested to the lesser of the depth of threshold or 2" and shall be operated at normal pressure for a test period of not less than 15 minutes, and there shall be no evidence of leakage.

8-1236. IRC Section P2603.5 Freezing.

In localities having a winter design temperature of 32°F (0°C) or lower as shown in Table R301.2(1) of this code, a water pipe shall not be installed outside of a building, in exterior walls, in attics or crawl spaces, or in any other place subjected to freezing temperature unless adequate provision is made to protect it from freezing by insulation or heat or both. Water service pipe shall be installed not less than 12 inches (305 mm) deep and not less than 6 inches (152 mm) below the frost line.

8-1237. IRC Section P2903.10 Hose Bibb.

This section is deleted without substitution.

8-1238. IRC Section P2904.1 General.

The design and installation of residential fire sprinkler systems shall be in accordance with NFPA 13D or Section P2904 which shall be considered equivalent to NFPA 13D. Partial residential sprinkler systems shall be permitted to be installed only in buildings not required to be equipped with a residential sprinkler system. Section

P2904 shall apply to stand-alone and multipurpose wet-pipe sprinkler systems that do not include the use of antifreeze. A multipurpose fire sprinkler system shall provide domestic water to both fire sprinklers and plumbing fixtures. A stand-alone sprinkler system shall be separate and independent from the water distribution system. A backflow preventer shall not be required to separate a stand-alone sprinkler system from the water distribution system. Any individual offering to contract for the design, installation, testing, and/or maintenance

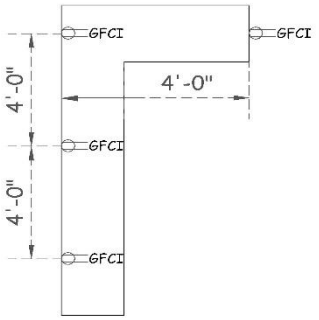
of a residential multipurpose fire sprinkler systems, as referred in Section P2904, must be certified and licensed through the South Carolina Contractors Licensing Board.

8-1239. IRC Section E3802.4 In unfinished basements and crawl spaces.

Where type NM or SE cable is run at angles with joists in unfinished basements, cable assemblies containing two or more conductors of sizes 6 AWG and larger and assemblies containing three or more conductors of sizes 8 AWG and larger shall not require additional protection where attached directly to the bottom of the joists. Smaller cables shall be run either through bored holes in joists or on running boards. Type NM or SE cable installed on the wall of an unfinished basement shall be permitted to be installed in a listed conduit or tubing or shall be protected in accordance with Table E3802.1. Conduit or tubing shall be provided with a suitable insulating bushing or adapter at the point where the cable enters the raceway. The sheath of the Type NM or SE cable shall extend through the conduit or tubing and into the outlet or device box not less than 1/4 inch (6.4 mm). The cable shall be secured within 12 inches (305 mm) of the point where the cable enters the conduit or tubing. Metal conduit, tubing, and metal outlet boxes shall be connected to an equipment grounding conductor complying with Section E3908.13. [334.15(C)]

8-1240. Section R3901.4.3 Peninsular countertop space.

Not less than one receptacle outlet shall be installed at each peninsular countertop long dimension space having a long dimension of 48 inches (1220 mm) or greater and a short dimension of 12 inches (305 mm) or greater. A peninsular countertop is measured from the connected perpendicular wall. [210.52(C)(3)].



8-1241. IRC Section R3902.16 Arc Fault Circuit Interrupted Protection.

In areas other than kitchen and laundry areas, branch circuits that supply 120-volt single-phase, 15- and 20-ampere outlets installed in family rooms, dining rooms, living rooms, parlors, libraries, dens, bedrooms, sunrooms, recreations rooms, closets, hallways, and similar rooms or areas shall be protected by any of the following: [210.12(A)]

1. A listed combination-type arc-fault circuit-interrupter, installed to provide protection of the entire branch circuit. [210.12(A)(1)]

2. A listed branch/feeder-type AFCI installed at the origin of the branch-circuit in combination with a listed outlet branch-circuit-type arc-fault circuit-interrupter installed at the first outlet box on the branch circuit. The first outlet box in the branch circuit shall be marked to indicate that it is the first outlet of the circuit. [210.12(A)(2)]

3. A listed supplemental arc-protection circuit breaker installed at the origin of the branch circuit in combination with a listed outlet branch-circuit-type arc-fault circuit interrupter installed at the first outlet box on the branch circuit where all of the following conditions are met:

3.1 The branch-circuit wiring shall be continuous from the branch-circuit overcurrent device to the outlet branch-circuit arc-fault circuit-interrupter.

3.2 The maximum length of the branch-circuit wiring from the branch-circuit overcurrent device to the first outlet shall not exceed 50 feet (15.2 m) for 14 AWG conductors and 70 feet (21.3 m) for 12 AWG conductors.

3.3 The first outlet box on the branch circuit shall be marked to indicate that it is the first outlet on the circuit. [210.12(A)(3)].

4. A listed outlet branch-circuit type arc-fault circuit interrupter installed at the first outlet on the branch circuit in combination with a listed branch-circuit overcurrent protective device where all of the following conditions are met:

4.1 The branch-circuit wiring shall be continuous from the branch-circuit overcurrent device to the outlet branch-circuit arc-fault circuit-interrupter.

4.2 The maximum length of the branch-circuit wiring from the branch-circuit overcurrent device to the first outlet shall not exceed 50 feet (15.2 m) for 14 AWG conductors and 70 feet (21.3m) for 12 AWG conductors.

4.3 The first outlet box on the branch circuit shall be marked to indicate that it is the first outlet on the circuit.

8-1242. IRC Section Appendix H Patio Covers.
The Building Codes Council does adopt IRC Section Appendix H.

8-1243. IRC Section Appendix J Existing Buildings.
The Building Codes Council does adopt IRC Section Appendix J.

8-1244. IRC Section Appendix Q Tiny Houses
The Building Codes Council does adopt IRC Section Appendix Q.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulations will incorporate modifications to the 2018 International Residential Code, appearing in Chapter 8, Article 12, as adopted by the South Carolina Building Codes Council.

Document No. 4867
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-1100. National Electrical Code.

Synopsis:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 11, of the Code of Regulations regarding the National Electrical Code.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

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

Text:

ARTICLE 11
NATIONAL ELECTRICAL CODE

2017 International Electrical Code Modification Summary

8-1100. National Electrical Code.
NOTE-This article is based upon the National Electrical Code, 2017 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the modifications referenced below.
This code is identical to the 2017 Edition of the National Electrical Code except for the following modifications:

8-1101. NEC Article 90.2(B)(5) Scope.
b. Are located in legally established easements, rights-of-way, or by other agreements either designated by or recognized by public service commissions, utility commissions, or other regulatory agencies having jurisdiction for such installations, or

8-1102. Repealed.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will reflect modifications made to the 2017 National Electrical Code, as adopted by the South Carolina Building Codes Council

Document No. 4849
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD
CHAPTER 29
Statutory Authority: 1976 Code Section 40-11-60

29-14. Surety Bond Claims.

Synopsis:

The South Carolina Contractor's Licensing Board proposes to amend its regulations to establish a bond claim procedure in compliance with the requirements set forth in 2018 Act No. 217.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

Print new regulation as shown below.

Text:

29-14. Surety Bond Claims.
(A) A claim on a surety bond issued pursuant to Section 40-11-262 shall be filed directly with the surety company by the claimant on a claim form approved by the Board. A claimant is not required to receive

authorization from the Board to file a bond claim. Claims are limited to the acts or omissions referenced in Section 40-11-262(B)(3), are for actual damages, and do not include attorney's fees incurred by or punitive damages awarded to the claimant.
(B) All liability on a surety bond is applicable to the surety bond in effect as of the date of occurrence which gave rise to the liability.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulation will establish procedures for filing a claim against a surety bond.

Document No. 4850
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO-EDUCATIONAL SPECIALISTS
CHAPTER 36
Statutory Authority: 1976 Code Sections 40-1-70 and 40-75-60

Chapter 36. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists.

Synopsis:

The South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists proposes to amend regulations to add licensure qualifications, educational requirements, a code of ethics, and other associated criteria for the regulation of addiction counselors and to update existing regulations.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

CHAPTER 36

DEPARTMENT OF LABOR, LICENSING AND REGULATION –
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL
COUNSELORS, MARRIAGE AND FAMILY THERAPISTS,
ADDICTION COUNSELORS AND PSYCHO-EDUCATIONAL SPECIALISTS

ARTICLE 1
DEFINITIONS

36-01. Definitions.
Definitions found in Section 40-75-20 apply to this chapter.

(1) "Supervision" means direct contact between a supervisor and an associate or other person requiring supervision under this chapter. Seventy-five (75%) percent of the supervision must be face-to-face, and the remaining twenty-five (25%) percent may be conducted via a HIPAA-compliant technological medium. During this time, the person supervised apprises the supervisor of the diagnosis and treatment of each client seen during the supervisory process. The supervisor provides the supervised person with oversight and guidance in diagnosing, treating, and dealing with clients, and the supervisor evaluates the supervised person's performance. The focus of a supervision session is on raw data from clinical work which is made directly available to the supervisor through such means as written clinical materials, direct (live) observation, co-therapy, audio and

video recordings, and live supervision. Supervision is a process clearly distinguishable from personal psychotherapy and is contrasted in order to serve professional goals. The major focus in supervision of supervisors is on the development of supervisory abilities as opposed to an exclusive focus on clinical skills.

(2) "Group supervision" means a regularly scheduled meeting of not more than six (6) supervisees, and an approved supervisor, for a minimum of two (2) hours.

(3) "Individual/triadic supervision" means a meeting of one (1) or two (2) supervisees with a supervisor for a period of at least a one (1) hour session.

(4) "Associate licensure" means an authorization to engage in a distinctly defined, post-degree, supervised experience intended to enable and to refine and enhance basic skills, develop more advanced therapy skills, and integrate professional knowledge and skills appropriate to the individual's initial professional placement. Associate licensure status provides an opportunity, under supervision, for the individual to perform all the activities that a regularly employed staff member in the setting would be expected to perform.

(5) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry-level educational requirements for professional counselors, marriage and family therapists, and psycho-educational specialists.

(6) "Contact hour" means a minimum of fifty (50) minutes of instruction.

(7) "Impairment" means impairment of mental and/or physical ability to practice according to acceptable and prevailing standards of care including, but not limited to, habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. Impairment includes inability to practice in accordance with such standards, and treatment, monitoring, and supervision.

(8) "Relapse" means any use of alcohol or of a drug or substance that may impair ability to practice during or after any approved treatment program, except pursuant to the directions of a treating physician who has knowledge of the patient's history and the disease of addiction, or pursuant to the direction of a physician in a medical emergency.

(9) "Approved treatment provider" means a treatment provider approved by the Board.

(10) "Sobriety" means abstinence from alcohol, and from drugs or substances that may impair ability to practice, except pursuant to the directions of a treating physician who has knowledge of the patient's history and the disease of addiction, or pursuant to the direction of a physician in a medical emergency.

(11) "Qualified licensed mental health practitioner" means a person licensed as a Professional Counselor Supervisor, Marriage and Family Therapy Supervisor, Addiction Counselor Supervisor, Psychologist, or Medical Doctor, and approved by the Board, who possesses the knowledge and expertise necessary to provide a supervised person with guidance and direction, in a structured program, to gain knowledge and skills associated with the diagnosis and treatment of serious problems as categorized in standard diagnostic nomenclature.

(12) "DSM" means the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(13) "Serious Problems" are those disorders as categorized in standard diagnostic nomenclature such as the DSM with the exception of codes assigned to normal lifecycle transitional conflicts.

(14) "Specific training to diagnose, assess and treat serious problems" - Any Licensed Professional set forth in Sections 36-04 and 36-05, Sections 36-07 and 36-08, and Sections 36-10 and 36-11, respectively, is deemed to have the requisite training to diagnose, assess and treat serious problems. If a client presents with a problem which is beyond the licensee's training and competence, the licensee must refer the problem to a licensed professional who has been specifically trained to diagnose, assess and treat the presenting problem.

(15) "National Educational Accrediting Body" – the following are approved national educational accrediting bodies: For professional counselors, the Council for Accreditation of Counseling & Related Educational Programs (CACREP); for marriage and family therapists, the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); and for addiction counselors, National Addictions

Studies Accreditation Commission (NASAC) and CACREP. The Board may approve other national educational accrediting bodies which, in the Board's determination, follow similar educational standards.

ARTICLE 2
OFFICERS OF BOARD; MEETINGS

36-02. Officers of Board.

At the first meeting of each calendar year, the Board shall elect from among its professional members a president, vice-president, and other officers as the Board determines necessary.

36-03. Meetings.

(1) The Board shall meet at least two (2) times a year and at other times upon the call of the president or a majority of the Board members.

(2) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(3) Board members are required to attend meetings or to provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240. Affirmative action by the Board is required to approve an excused absence, and the status of an absence as excused or unexcused is entirely within the Board's discretion.

ARTICLE 3
LICENSING PROVISIONS

36-04. Licensing Provisions for Professional Counselor Associate.

An applicant for initial licensure as a professional counselor associate must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) show evidence of completion from a Clinical Mental Health counseling program accredited by the CACREP at the time of graduation; or

(3) submit evidence of successful completion of a master's degree, specialist's degree or doctoral degree with a minimum of sixty (60) graduate semester hours primarily in counseling from a program accredited by a national educational accrediting body such as CACREP or one that follows similar educational standards and from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally-accredited institution of higher learning subsequent to receiving the graduate degree. On one's graduate transcript the applicant must demonstrate successful completion of one (1) three-hour graduate level course in each of the following areas:

(a) Human growth and development: coursework content providing an understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory, and learning theory (all) within cultural contexts; and

(b) Social and cultural foundations: coursework content providing an understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; and

(c) Helping relationships: coursework content providing an understanding of philosophic bases of helping processes, counseling theories and their applications, helping skills, consultation theories and applications, helper self-understanding and self-development, and facilitation of client or consultee change; and

(d) Groups: coursework content providing an understanding of group development, dynamics, and counseling theories; group leadership styles, group counseling methods and skills, and other group approaches; and

(e) Lifestyle and career development: coursework content providing an understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education; lifestyle and career decision-making; and career development program planning, resources, and evaluation; and

(f) Appraisal: coursework content providing an understanding of group and individual education and psychometric theories and approaches to appraisal, data, and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes; and

(g) Research and evaluation: coursework content providing an understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations; and

(h) Professional orientation: coursework content providing an understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing; and

(i) Psychopathology and/or diagnostics: coursework content providing an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, treatment of abnormal behavior and an understanding of the diagnostics of Psychopathology; and

(j) Practicum: a minimum of one (1) supervised one hundred (100) hour counseling practicum; and

(k) Internship: completed an internship, as part of a degree program, of at least six hundred (600) hours under the supervision of a qualified licensed mental health practitioner that included experience assessing and treating clients with more serious problems as categorized in standard diagnostic nomenclature; and

(4) submit evidence of a passing score on examinations approved by the Board; and

(5) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Professional Counselor Associate; and

(6) submit a disclosure statement as found in S.C. Code Section 40-75-270.

(7) The provisions in Reg. 36-04(3) regarding education requirements take effect two years from the effective date of that regulation. Students who have graduated from or are enrolled in a degree program prior to that effective date can meet the education licensing requirements pursuant to the education licensing provisions in effect prior to the effective date.

36-05. Licensing Provisions for Licensed Professional Counselors.

An applicant for licensure as a professional counselor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted professional counselor associate license; and

(3) submit, on forms approved by the Board, documentation of completion of a minimum of one thousand five hundred (1500) hours of post-master's clinical experience and post master's clinical supervision in the practice of professional counseling performed over a period of not fewer than two (2) years. Of the one thousand five hundred (1500) hours, there must be a minimum of one thousand three hundred eighty (1,380) hours of documented direct client contact and a minimum of one hundred twenty (120) hours of documented supervision by a licensed professional counselor supervisor or other qualified licensed mental health practitioner approved by the Board that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. A minimum of sixty (60) hours of the supervision hours must be individual/triadic, and the remaining sixty (60) hours may be individual/triadic or group.

36-06. Licensing Provisions for Licensed Professional Counselor Supervisors.

An applicant for licensure as a professional counselor supervisor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted South Carolina Professional Counselor License; and

(3) either (a) or (b):

(a) hold a doctoral degree in Counselor Education and Supervision, or

(b) provide:

(i) evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application; and

(ii) evidence of a minimum of thirty-six (36) hours of individual/triadic supervision over no less than a two-year period, by a Board licensed professional counselor supervisor, of the applicant's supervision of at least two (2) and no more than six (6) licensed professional counselor associates; and

(iii) evidence of a minimum of three (3) semester hours of graduate study in supervision oriented to their discipline or training approved by the Board.

36-07. Licensing Provisions for Marriage and Family Therapy Associates.

An applicant for initial licensure as a marriage and family therapy associate must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) submit proof of graduating from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or

(3) submit evidence of successful completion of a master's degree, specialist's degree or doctoral degree with a minimum of sixty (60) graduate semester hours in marriage and family therapy from a program accredited by a national educational accrediting body such as COAMFTE or one that follows similar educational standards;

or a post-degree program accredited by COAMFTE or one that follows similar educational standards and from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree. The applicant must demonstrate successful completion of:

(a) a minimum of six (6) graduate semester hours in foundations of relational/systemic practice, theories and models. This area facilitates students developing competencies in the foundations and critical epistemological issues of Marriage and Family Therapists. It includes the historical development of the relational/systemic perspective and contemporary conceptual foundations of Marriage and Family Therapists, and early and contemporary models of the Marriage and Family Therapist, including evidence-based practice and the biopsychosocial perspective; and

(b) a minimum of six (6) graduate semester hours in clinical treatment with individuals, couples and families. This area facilitates students developing competencies in treatment approaches specifically designed for use with a wide range of diverse individuals, couples, and families, including sex therapy, same-sex couples, working with young children, adolescents and elderly, interfaith couples, and includes a focus on evidence-based practice. Coursework must include crisis intervention; and

(c) a minimum of three (3) graduate semester hours in diverse, multicultural and/or underserved communities. This area facilitates students developing competencies in understanding and applying knowledge of diversity, power, privilege, and oppression as these relate to race, age, gender, ethnicity, sexual orientation, gender identity, socioeconomic status, disability, health status, religious, spiritual and/or beliefs, nation of origin or other relevant social categories throughout the curriculum. It includes practice with diverse, international, multicultural, marginalized, and/or underserved communities, including developing competencies in working with sexual and gender minorities and their families as well as anti-racist practices; and

(d) a minimum of three (3) graduate semester hours in research and evaluation. This area facilitates students developing competencies in Marriage and Family Therapy research and evaluation methods, and in evidence-based practice, including becoming an informed consumer of couple, marriage, and family therapy research. If the program's mission, goals and outcomes include preparing students for doctoral degree programs, the program must include an increased emphasis on research; and

(e) a minimum of three (3) graduate semester hours in professional identity, law, ethics and social responsibility. This area addresses the development of a Marriage and Family Therapy identity and socialization, and facilitates students developing competencies in ethics and Marriage and Family Therapy practice, including understanding and applying the AAMFT Code of Ethics and understanding legal responsibilities; and

(f) a minimum of three (3) graduate semester hours in biopsychosocial health and development across the life span. This area addresses individual and family development, human sexuality, and biopsychosocial health across the lifespan; and

(g) a minimum of three (3) graduate semester hours in systemic/relational assessment and psychopathology, diagnosis and treatment. This area facilitates students developing competencies in traditional psychodiagnostic categories, psychopharmacology, the assessment, diagnosis, and treatment of major mental health issues as well as a wide variety of common presenting problems including addiction, suicide, trauma, abuse, intra-familial violence, and therapy for individuals, couples, and families managing acute chronic medical conditions, utilizing a relational/systemic philosophy; and

(h) a minimum of five hundred (500) clinical contact hours with individuals, couples, families, and other systems physically present, at least forty (40%) percent of which must be relational. The five hundred (500) hours must occur over a minimum of twelve (12) months of clinical practice. A minimum of one hundred (100) hours of clinical supervision must be provided by a marriage and family therapy supervisor, that included

experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature; and

(4) submit evidence of a passing score on examinations approved by the Board; and

(5) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Marriage and Family Therapy Associate.

(6) submit a professional disclosure statement as found in S.C. Code Section 40-75-270.

(7) The provisions in Reg. 36-07(3) regarding education requirements take effect two years from the effective date of that regulation. Students who have graduated from or are enrolled in a degree program prior to

that effective date can meet the education licensing requirements pursuant to the education licensing provisions in effect prior to the effective date.

36-08. Licensing Provisions for Marriage and Family Therapists.

An applicant for licensure as a Marriage and Family Therapist must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted Marriage and Family Therapy Associate license unless applying under the provisions of Section 36-11; and

(3) submit, on forms approved by the Board documentation of completion of a minimum of one thousand five hundred (1500) hours of post-master's clinical experience and post-master's clinical supervision in marriage and family therapy performed over a period of no fewer than two (2) years. Of the one thousand five hundred (1500) hours, there must be a minimum of one thousand three hundred eighty (1,380) documented direct client contact hours and a minimum of one hundred twenty (120) documented hours of supervision by a licensed marriage and family therapy supervisor or other qualified licensed mental health practitioner approved by the Board, that includes experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. At least sixty (60) of the supervision hours must be individual/triadic, and the remaining sixty (60) hours can be individual/triadic or group.

36-09. Licensing Provisions for Licensed Marriage and Family Therapy Supervisors.

An applicant for licensure as a marriage and family therapy supervisor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted South Carolina Marriage and Family Therapy License; and

(3) submit evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application; and

(4) submit evidence of a minimum of thirty-six (36) hours of individual/triadic supervision, over a period of no less than two (2) years, by a Board licensed marriage and family therapy supervisor of the applicant's supervision of at least two (2) and no more than six (6) marriage and family therapy associates; and

(5) submit evidence of a minimum of three (3) semester hours of graduate study in supervision or training approved by the Board.

36-10. Licensing Provisions for Addiction Counselor Associates.

An applicant for initial licensure as an addiction counselor associate must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) show evidence of completion from an addiction counseling program accredited by CACREP at the time of graduation; or

(3) submit evidence of successful completion of a master's degree, specialist's degree or doctoral degree with a minimum of forty-eight (48) graduate semester hours primarily in counseling or related field from a program accredited by NASAC, CACREP, or one that follows similar educational standards, and from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally-accredited institution of higher learning subsequent to receiving the graduate degree. On one's graduate transcript(s) the applicant must demonstrate successful completion of 27 of the 48 hours consisting of courses in the following areas:

(a) Human growth and development course; and/or

(b) Social and cultural foundations course; and/or

(c) Counseling Theory Course; and/or

(d) Family System Theory Course; and/or

(e) Career Theory; and/or

(f) Group Dynamics; and/or

(g) Screening, Assessment and Clinical Diagnosis within behavioral health; and/or

(h) Research and evaluation; and/or

(i) Professional orientation: coursework content providing an understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing; and

(j) 6 hours of Substance Use Disorder/ Addiction Specific Coursework; and

(k) Practicum: a minimum of one (1) supervised one hundred (100) hour counseling practicum; and

(l) Internship: completed an internship, as part of a degree program, of at least six hundred (600) hours, of which three hundred (300) hours must be working primarily with the substance use disordered population with a minimum of one hundred twenty (120) hours of direct client contact; however, if the 300/120 specific hours requirement is not met within the 600 hour internship, a post-graduate experience may be served to meet this requirement; and

(4) submit evidence of a passing score on examinations approved by the Board; and

(5) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Addiction Counselor Associate; and

(6) submit a professional disclosure statement as found in S.C. Code Section 40-75-270.

36-11. Licensing Provisions for Addiction Counselors.

An applicant for licensure as an addiction counselor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted addiction counselor associate license; and

(3) submit, on forms approved by the Board, documentation of completion of a minimum of one thousand one hundred twenty (1120) hours of post-master's clinical experience and post master's supervision in addiction counseling performed over a period of not fewer than two (2) years. Of the one thousand one hundred twenty (1120) hours, there must be a minimum of one (1,000) hours of documented direct client contact with clients presenting with addiction issues, and a minimum of one hundred-twenty (120) hours of documented supervision by a licensed addiction counselor supervisor or other qualified licensed practitioner approved by the Board. At least sixty (60) hours of the supervision hours must be individual/triadic, and the remaining sixty (60) hours may be individual/triadic or group. The Board may consider accepting supervised experience hours required pursuant to Reg. 36-11 that were obtained within a reasonable time prior to the effective date of that regulation, where the supervision was with an appropriately qualified supervisor, as determined by the Board. However, no more than 50% of the required hours may be obtained under this carryover provision.

36-12. Licensing Provisions for Licensed Addiction Counselor Supervisors.

An applicant for licensure as a professional counselor supervisor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted South Carolina Addiction Counselor License; and

(3) submit evidence acceptable to the Board of at least three (3) years of being in the practice of addiction counseling immediately preceding the application; and

(4) either (a) or (b) and (c):

(a) currently hold a LPC-S, LMFT-S or CCS by SCAADAC; or

(b) submit evidence of a minimum of thirty-six (36) hours of individual/triadic supervision over a period of no less than two years, by a licensed addiction counselor supervisor or supervisor approved by the Board, of the applicant's supervision of at least two (2) and maximum of six (6) licensed addiction counselor associates; and

(c) evidence of a minimum of three (3) semester hours of graduate study in supervision oriented to their discipline or training approved by the Board.

36-13. Licensing Provisions for Psycho-educational Specialists.

An applicant for initial licensure as a psycho-educational specialist must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) submit evidence of successful completion of an earned master's degree plus thirty (30) graduate semester hours, or an earned sixty (60) graduate semester hour master's degree, or a sixty (60) graduate semester hour specialist's degree, or a doctoral degree in school psychology from an institution of higher education whose

program is approved by the National Association of School Psychologists or the American Psychological Association or a program which the Board finds to be substantially equivalent. A substantially equivalent program must include an earned master's, specialist's, or doctoral degree in an applied area of psychology, education, or behavioral sciences from a regionally accredited institution, completion of at least sixty (60) graduate semester hours, and substantial preparation, including coursework, in the following areas:

(a) psychological foundations, including biological bases of behavior; human learning; child and adolescent development; social/cultural bases of behavior; and individual differences (exceptionalities/psychopathology of children and youth); and

(b) educational foundations, including organization and operation of schools; and instructional/remedial design; and

(c) assessment and intervention, including diverse methods of individual assessment that can be linked to intervention; direct intervention including counseling and behavior analysis/intervention; and indirect intervention including a consultation with school personnel and families; and

(d) statistics and research methodologies; and

(e) professional school psychology, including history and foundations of school psychology; legal and ethical issues; professional issues and standards; alternative models of service delivery; emergent technologies; and roles and functions of school psychologists; and

(f) a one-year twelve hundred (1200) hour internship, at least one-half (1/2) of which must be in an approved school setting. The internship shall include a full range of psycho-educational services supervised by a licensed psycho-educational specialist or certified or licensed school psychologist. If a portion of the internship is completed in a non-school setting, supervision may be provided by a psychologist appropriately credentialed for that setting as approved by the Board. The possession of a National Certified School Psychologist (NCSP) credential issued after January 1, 1988 shall be evidence of completion of a satisfactory program as provided above; and

(g) has completed, within three (3) years after the effective date of these regulations, a minimum of three (3) graduate semester hours in Psychopathology in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and

(h) has completed, within three (3) years after the effective date of these regulations, a minimum of three (3) graduate semester hours in Diagnostics in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of the diagnostics of psychopathology; and

(3) provide evidence satisfactory to the Board of certification by the South Carolina Department of Education in school psychology level II or III; and

(4) provide evidence satisfactory to the Board that the applicant has successfully served as a certified school psychologist for at least two (2) years in a school or comparable setting. After January 1, 2000, one (1) year must have been under the supervision of a licensed psycho-educational specialist that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. One (1) year of experience is defined as full-time employment for one (1) contract year of at least one hundred ninety (190) work days. Two (2) consecutive years of half-time work may, at the discretion of the Board, be deemed to be equivalent to one (1) full year of experience. The experience must include provision of a full range of services to children, youth, and families. Experience acquired under a provisional or temporary certificate in school psychology, or in a pre-degree practicum or internship, may not count toward this experience requirement; and

(5) submit evidence of a passing score on examinations approved by the Board.

36-14. Licensure by Endorsement.

(A) An applicant for licensure as a professional counselor, marriage and family therapist, addiction counselor, or psycho-educational specialist by endorsement must:

(1) hold a current, active, and unrestricted license in good standing under the laws of another state or territory that had requirements that were, at the date of initial licensure, substantially equivalent to or higher than the requirements in effect in South Carolina at the date of initial licensure; however, substantially equivalent

education may be met by documenting five years of active unrestricted licensure, in good standing, within the ten-year period immediately preceding the application; and

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) provide other documentation, as required by the Board.

(B) An applicant for licensure as a professional counselor supervisor, addiction counselor supervisor, or marriage and family therapist supervisor, by endorsement, must:

(1) hold a current, active, and unrestricted supervisor license in good standing under the laws of another state or territory that had requirements that were, at the date of initial licensure, substantially equivalent to or higher than the requirements in effect in South Carolina at the date of initial licensure; and

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) provide other documentation as required by the Board.

36-15. Reactivation of Expired Licenses.

(1) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for at least three (3) months, but fewer than two (2) years, may reactivate the license upon application, along with the required fee, and demonstration of evidence satisfactory to the Board on a form approved by the Board of the requisite continuing education hours for each year during which the license was expired. The Board for good cause may waive any part of this continuing education requirement upon appropriate conditions.

(2) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for more than two (2) years must re-apply and meet all of the requirements, at the time of application, for licensure.

(3) Any applicant for reactivation shall submit a notarized affidavit certifying that they have not been engaged in the practice of counseling, marriage and family therapy, psycho-education specialty outside of the school setting, professional counselor supervising or marriage and family therapy supervising during the period their license was not in an active status.

ARTICLE 4
CONTINUING EDUCATION

36-16. Continuing Education Requirements for Professional Counselors, Addiction Counselors and Marriage and Family Therapists.

(1) Persons licensed as professional counselors, addiction counselors, or marriage and family therapists shall complete forty (40) hours of continuing education, of which thirty-four (34) hours must be related to their respective professional license and six (6) hours must be specific to ethical standards related to their respective professional license during every two-year licensure period. A first-time licensee is not required to obtain continuing education for the licensing period in which the initial license was obtained. After this first renewal, the continuing education requirements shall apply. Persons holding more than one license must complete fifty (50) hours of formal continuing education during every two-year licensure period as a condition of renewal of their licenses. Of the fifty (50) hours, six (6) hours must be specific to ethical standards, and the remaining forty-four (44) hours divided as equally as possible among the related disciplines. Persons licensed as professional counselor supervisors, addiction counselor supervisors, or marriage and family therapy supervisors must complete ten (10) hours of formal continuing education in supervision of their discipline during every two-year licensure period as a condition of renewal of their license. Persons holding multiple supervision licenses must complete ten (10) hours of formal continuing education in supervision, dividing the hours as equally as possible among each discipline.

(2) Any formal continuing education activity sponsored by a professional counselor certifying body, addiction counselor certifying body, and marriage and family therapy certifying body, or body approved by the Board as a continuing education sponsoring body, or one of its regional or state divisions, is automatically approved for the formal continuing education requirement.

(3) Unapproved sponsoring organizations must request advance approval on Board-approved forms ninety (90) days prior to each continuing education event. In order to request approval, the sponsoring organization

must submit an agenda of the session, the curriculum vitae of all presenters and a copy of the evaluation documents.

(4) The Board accepts informal continuing education using the following guidelines:

(a) a first time presentation of a paper, workshop, or seminar for a national, regional, statewide, or other professional meeting may be approved for a maximum of five (5) continuing education hours; and

(b) a published paper in a referred journal may be approved for a maximum of five (5) continuing education hours and may be used only once; and

(c) preparation of a new or related course for an educational institution or organization may be approved for a maximum of five (5) continuing education hours; and

(5) No hours may be carried forward from the renewal period in which they were earned.

(6) No more than fifty (50%) percent of continuing education credit may be taken online.

36-17. Continuing Education Requirements for Psycho-educational Specialists.

(1) Persons licensed as psycho-educational specialists shall complete forty (40) hours of continuing education of which thirty-four (34) hours must be related to their respective professional license and six (6) hours must be specific to ethical standards related to their respective professional license during every two-year licensure period. Persons licensed as both a psycho-educational specialist and a professional counselor and/or marriage and family therapist must complete at least fifty (50) hours of formal continuing education during every two-year licensure period as a condition of renewal of their licenses. Of the fifty (50) hours, six (6) hours must be specific to ethical standards related to their respective professional license and at least twenty-two (22) must be related to each discipline.

(2) No more than fifty (50%) percent of continuing education credit may be taken online.

(3) Continuing education credit for psycho-educational specialists may be awarded for documented completion of the following activities:

(a) a minimum of twenty (20) continuing education hours in workshops, conferences, formal in-service training, college or university courses, and teaching and training activities. A maximum of ten (10) hours may be awarded for attendance at workshops, conferences, or in-service training. For teaching and training activities, credit may be awarded only for the first time the content is taught and limited to a maximum of ten (10) hours; or

(b) a maximum of twenty (20) continuing education hours in research and publications, supervision of associates, post-graduate supervised experiences, program planning/evaluation, self-study, and professional organizational leadership. A maximum of ten (10) hours may be awarded for unpublished research. A maximum of twenty (20) hours may be awarded for research and publication or presentation. A maximum of ten (10) hours may be awarded for articles published or posters presented. Each project may be claimed only once. A maximum of twenty (20) hours may be awarded for supervision of associates. No more than one (1) post-graduate supervised experience may be claimed in any renewal period. A maximum of fifteen (15) hours may be awarded for program planning/evaluation. A maximum of twenty (20) hours may be awarded for self-study. No more than one (1) activity may be counted per organization per year and a maximum of ten (10) hours may be awarded in professional organization leadership.

ARTICLE 5
FEES

Editor's Note

The following regulations were added by State Register Volume 25, Issue No. 5, Part II, eff May 25, 2001. They replace previous regulations effective June 26, 1987, as amended.

36-18. Fees.

(A) The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-33 and on the South Carolina Board of Examiners for the Licensure of Professional Counselors, Addiction Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists at http://llr.sc.gov/POL/Counselors/.

(B) All fees are nonrefundable.

ARTICLE 6
TREATMENT FOR IMPAIRED PRACTITIONERS

36-19. Identification of Impaired Practitioners.

(A) Any person licensed under Title 40, Chapter 75 of the Code of Laws of South Carolina shall report to the Board any belief that a practitioner suffers from an impairment that does presently or in the future may affect the ability of the practitioner to competently practice, unless:

(1) the individual, or the organization of which the individual is a part, is a treatment provider approved by the Board; and

(a) the practitioner maintains participation in treatment or aftercare; and

(b) the practitioner, if currently undergoing an inpatient treatment program, is not practicing and is following the guidelines set forth by the treatment program. If the practitioner is an out-patient, is maintaining sobriety and is enrolled in an approved aftercare program; or

(2) the individual is a member of an impaired practitioner committee, or the equivalent, established by a hospital or similar institution or its staff, or is a representative or agent of a committee or program sponsored by a professional association of individuals licensed under Title 40, Chapter 75 of the Code of Laws to provide peer assistance to practitioners with substance abuse problems; and

(a) the practitioner has been referred for examination to an approved treatment program; and

(b) the practitioner cooperates with the referral for examination and any determination that he should enter treatment; and

(c) the practitioner's ability to practice competently has not been affected; or

(3) the individual maintains a good faith belief that:

(a) the practitioner has been referred for examination to an approved treatment program; and

(b) the practitioner cooperates with the referral for examination and any determination that he should enter treatment; and

(c) the practitioner's ability to practice competently has not been affected; or

(4) the individual is otherwise prohibited from reporting to the Board by state or federal law.

(B) For purposes of this section, a reason to believe or a belief does not require absolute certainty or complete unquestioning acceptance; but only an opinion that an impairment exists based upon firsthand knowledge, or reliable information.

(C) Any report required by this section shall be made to the Board within forty-eight (48) hours.

36-20. Treatment of Complaints Pertaining to Impaired Practitioners.

(A) An individual who accepts the privilege of practicing under Title 40, Chapter 75 of the South Carolina Code of Laws in this State is subject to oversight by the Board. By filing an application or being licensed by the Board, the individual shall be deemed to give consent to submit to a mental or physical examination when ordered to do so by the Board in writing, and to have waived all objections to the admissibility of testimony or examination of reports that constitute privileged communications. Failure of the individual to submit to a mental or physical examination order by the Board constitutes an admission of the allegations against the individual licensee unless the failure is due to circumstances beyond the individual's control.

(B) When the Board receives information by the filing of a complaint, or upon its own information, that a licensee's ability to practice has fallen below the acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances and other physical or mental impairments that affect the ability to practice, the Board may order the licensee to submit to a mental or physical examination conducted by a designee of the Board for the purpose of determining if there is an impairment that poses a threat to the licensee's well-being or the treatment of a client whom the licensee serves.

(C) If the Board determines that the individual's ability to practice is impaired, the Board shall suspend or place restrictions on the individual's license to practice, or deny the individual's application, and require the individual to submit to treatment, as a condition for initial, continued, reinstated, or renewed licensure to practice.

(D) In cases where the Board has not initiated disciplinary action, the following general pattern of action shall be followed:

(1) upon identification by the Board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations; and

(2) if the examination or examinations fail to disclose impairment, no action shall be initiated unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment; and

(3) if the examination discloses impairment, or if the Board has other reliable, substantial, and probative evidence demonstrating impairment, including, but not limited to, evidence of relapse after the completion of inpatient or outpatient treatment, the Board shall initiate proceedings to suspend the license or deny licensure of the applicant; and

(4) before being eligible to apply for reinstatement of a license suspended under this section, the practitioner must demonstrate to the Board that a resumption of practice may be made in compliance with acceptable and prevailing standards of care under the provisions of an unrestricted license. Such demonstrations shall include, but shall not be limited to, the following:

(a) certification from a treatment provider approved by the Board that the practitioner has successfully completed any required inpatient treatment; and

(b) evidence of continuing full compliance with an aftercare contract or consent agreement; and

(c) two (2) written reports indicating that the individual's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the Board for making such assessments and shall describe the basis for this determination; and

(5) when the impaired practitioner resumes practice after reinstatement of his license, the Board shall require continued monitoring of the practitioner. This monitoring shall include, but not be limited to, compliance with any written consent agreement entered into before reinstatement or compliance with conditions imposed by the Board order after a hearing, and, upon termination of the consent agreement, submission by the practitioner to the Board, for at least two (2) years, of annual written progress reports made under penalty of perjury stating whether the license holder has maintained sobriety.

(E) In cases where the Board has initiated a disciplinary action, the general pattern of action described above shall be followed, except that:

(1) if the Board imposes a period of ineligibility for licensure, the individual shall not be eligible for a license reinstatement until the period has lapsed; or

(2) if the Board imposes an indefinite period of ineligibility, licensure, or license reinstatement shall depend upon successful completion of the requirements and determination by the Board that the period of suspension or ineligibility served is commensurate with the violations found.

36-21. Impaired Practitioner Treatment Programs.

(A) The Board may contract with providers of impaired treatment programs, or refer practitioners to Board-approved programs, receive and evaluate reports of suspected impairment from any source, intervene in cases of verified impairment, monitor treatment and rehabilitation of the impairment, provide post-treatment monitoring, and support and provide other functions as necessary to carry out the provisions of this regulation.

(B) The Board-approved treatment programs shall be provided with all relevant information from the Board and other sources regarding a practitioner referred to the program, including but not limited to, the potential impairment. The program shall report in a timely fashion any impaired professional counselor, marriage and family therapist, or psycho-educational specialist who refuses to cooperate with an evaluation or investigation, or who refuses to submit to treatment or rehabilitation, or whose impairment is not substantially alleviated through treatment or who, in the opinion of the evaluators, is unable to practice professional counseling, marriage and family therapy, or psycho-education with reasonable skill and safety.

(C) All Board-approved programs must:

(1) report to the Board the name of any impaired practitioner who fails to enter treatment within forty-eight (48) hours following the provider's determination that the practitioner needs treatment; and

(2) require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare; and

(3) require a practitioner to suspend practice upon entry into any required inpatient treatment; and

(4) report to the Board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare; and

(5) report to the Board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care; and

(6) require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the Board for approval of treatment providers.

ARTICLE 7
CODES OF ETHICS

36-22. Code of Ethics for Professional Counselors.

(A) General.

(1) Professional Counselors shall engage in continuous efforts to improve professional practices, services, and research and shall be guided in their work by evidence of the best professional practices.

(2) Professional Counselors shall recognize their responsibility to the clients they serve and the institutions in which the services are performed and shall strive to assist the respective agency, organization, or institution in providing competent and ethical professional services. The acceptance of employment in an institution shall mean that the Professional Counselor is in agreement with the general policies and principles of the institution and that the professional activities of the Professional Counselor are in accord with the objectives of the institution. If the Professional Counselor and the employer do not agree and cannot reach agreement on policies that are consistent with appropriate counselor ethical practice that is conducive to client growth and development, the Professional Counselor shall terminate his employment and strive to change the unethical practice through appropriate professional organizations.

(3) Professional Counselors shall engage in ethical behavior at all times and shall take immediate action to report unethical behavior by professional interns to the Board or other appropriate authority.

(4) Professional Counselors must refuse remuneration for consultation or counseling with persons who are entitled to these services through the counselor's employing institution or agency and shall not divert to their private practices, without the mutual consent of the institution and the client, legitimate clients in their primary agencies, or the institutions with which they are affiliated.

(5) In establishing fees, Professional Counselors shall consider the financial status of clients, and if the established fee is inappropriate, must provide assistance to the client in finding comparable services at an acceptable cost. Professional Counselors shall not enter into any agreement wherein counseling services are exchanged as barter.

(6) Professional Counselors shall offer only professional services for which they are trained or have supervised experience. No diagnosis, assessment, or treatment shall be performed without prior training or supervision. Professional Counselors shall correct any misrepresentation of their qualifications by others.

(7) Professional Counselors shall recognize their limitations and provide services or use techniques for which they are qualified by training and/or supervision. Professional Counselors shall recognize the need for and seek continuing education to assure competent services.

(8) Professional Counselors must be aware of the intimacy in the counseling relationship and maintain respect for the client and must not engage in activities that seek to meet their personal or professional needs at the expense of the client.

(9) Professional Counselors shall not engage in personal, social, organizational, financial, or political activities which might lead to a misuse of their influence.

(10) Professional Counselors shall not engage in sexual intimacy with clients and shall not be sexually, physically, or romantically intimate with clients, nor engage in sexual, physical, or romantic intimacy with clients within two (2) years after terminating the counseling relationship.

(11) Professional Counselors shall not engage in sexual harassment or other unwelcome comments, gestures, or physical contact of a sexual nature, nor shall they condone such conduct in others.

(12) Professional Counselors shall guard the individual rights and personal dignity of their clients in the counseling relationship through an awareness of the impact of stereotyping and unwarranted discrimination.

(13) Professional Counselors shall be accountable at all times for their behavior and must be aware that all actions and behaviors reflect on professional integrity and, when inappropriate, can damage the public trust in the counseling profession. To protect public confidence in the counseling profession, Professional Counselors shall avoid behavior that is clearly in violation of accepted moral and legal standards.

(14) Professional Counselors shall observe this Code of Ethics in all products and services offered, including but not limited to classroom instruction, public lectures, demonstrations, written articles, radio, and television programs.

(15) Professional Counselors must withdraw from the practice of counseling if the mental or physical condition of the Counselor renders it unlikely that a professional relationship can be maintained.

(B) Counseling Relationship.

(1) Professional Counselors shall respect the integrity and promote the welfare of clients, whether they are assisted individually, in family units, or in group counseling. In group settings, the Professional Counselor shall be responsible for taking reasonable precautions to protect individuals from physical and/or psychological trauma resulting from interaction within the group.

(2) Professional Counselors shall take into account the traditions and practices of other professional disciplines with whom they work and cooperate fully with them. If a person is receiving similar services from another professional, Professional Counselors shall not offer their own services directly to such a person. If a Professional Counselor is contacted by a person who is already receiving similar services from another professional, the Professional Counselor must carefully consider that professional relationship and the client's welfare and proceed with caution and sensitivity to the therapeutic needs of the client. When Professional Counselors learn that their clients are in a professional relationship with another mental health professional, the Professional Counselor must request release from the client to inform the other mental health professional of their relationship with the client and strive to establish positive and collaborative professional relationships that are in the best interest of the client. Professional Counselors shall discuss these issues with the client and the mental health professional so as to minimize the risk of confusion and conflict and encourage clients to inform other professionals of the new professional relationship.

(3) Professional Counselors may consult with any other professionally competent person about a client and shall inform the client of this possibility. Professional Counselors must avoid placing a consultant in a conflict-of-interest situation that would preclude the consultant serving as a proper party to the efforts to assist the client.

(4) Professional Counselors may share confidential information when there is a clear and imminent danger to the client and others, as provided by law.

(5) Professional Counselors shall maintain records of the counseling relationship which may include interview notes, test data, correspondence, audio or visual tape recordings, electronic data storage, and other documents. Records shall contain accurate factual data, and the physical record are the property of the Professional Counselor or their employers. Professional Counselors shall maintain records in accordance with the policy of the Board.

(6) Professional Counselors shall ensure that all data maintained in electronic storage are secure. Stored data shall be limited to information that is appropriate and necessary for the services provided and accessible only to appropriate staff members involved in the provision of services. Professional Counselors shall ensure that the electronically stored data are destroyed when the information is no longer of value in providing services or required as part of the client's record.

(7) Professional Counselors shall disguise identifying information derived from a client relationship when that information is used in training or research. Any data which cannot be disguised may be used only as expressly authorized by the client's informed consent.

(8) Professional Counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, and clearly indicate limitations that may affect the relationship as well as any other pertinent information. Professional Counselors must take reasonable steps to ensure that clients understand the implications of any diagnosis, the intended use of tests and reports, methods of treatment, and safety precautions that must be taken in their use, fees, and billing arrangements.

(9) Professional Counselors who have an administrative, supervisory, and/or evaluative relationship with individuals seeking counseling services shall not serve as the counselor and shall refer the individual to other professionals. Exceptions may be made only in instances where an individual's situation warrants counseling

intervention and another alternative is not available. Dual relationships that might impair the counselor's objectivity and professional judgment must be avoided and/or the counseling relationship terminated through referral to a competent professional.

(10) When a Professional Counselor determines an inability to be of professional assistance to a potential or existing client, the counselor must, respectively, not initiate the counseling relationship or immediately terminate the relationship. In either event, the counselor must suggest appropriate alternatives and be knowledgeable about referral resources so that a satisfactory referral can be initiated. If the client declines the referral, the counselor shall not be obligated to continue the relationship.

(11) When engaging in intensive, short-term counseling, a Professional Counselor shall ensure that professional assistance is available at normal costs to clients during and following the short-term counseling.

(12) Professional Counselors who employ electronic means in which the counselor and client are not in immediate proximity must present clients with local sources of care before establishing a continued short or long-term relationship.

(13) Professional Counselors shall obtain legal authorization to practice in any jurisdiction in which they maintain an electronic presence via the internet or other electronic means.

(14) Professional Counselors shall ensure that clients are intellectually, emotionally, and physically compatible with computer applications used by the counselor and understand their purpose and operation.

(15) Professional Counselors shall maintain client confidentiality as provided by law.

(16) Professional Counselors shall screen prospective group counseling participants to ensure compatibility with group objectives.

(C) Measurement and Evaluation.

(1) Professional Counselors shall recognize the limits of their competence and perform only those assessment functions for which they have received appropriate training or supervision.

(2) Professional Counselors who utilize assessment instruments to assist them with diagnoses must have appropriate training and skills in educational and mental measurement, validation criteria, test research, and guidelines for test development and use.

(3) Professional Counselors shall provide instrument specific orientation or information to an examinee prior to and following the administration of assessment instruments or techniques so that the results may be placed in proper perspective with other relevant factors. The purpose of testing and the explicit use of the results must be disclosed to an examinee prior to testing.

(4) Professional Counselors shall carefully evaluate the specific theoretical bases and characteristics, validity, reliability, and appropriateness of an instrument in selecting the instrument or techniques for use in a given situation or with a particular client.

(5) Professional Counselors must provide accurate information and avoid false claims or misconceptions concerning the meaning of an instrument's reliability and validity terms when making statements to the public about assessment instruments or techniques.

(6) Professional Counselors shall follow the directions and researched procedures for selection, administration, and interpretation of all evaluation instruments and use them only within proper contexts.

(7) Professional Counselors shall be cautious when interpreting the results of instruments that possess insufficient technical data, and must explicitly state to examinees the specific limitations and purposes for the use of such instruments.

(8) Professional Counselors shall proceed cautiously when attempting to evaluate and interpret performance of any person who cannot be appropriately compared to the norms for the instruments.

(9) Professional Counselors shall maintain test security.

(10) Professional Counselors shall consider psychometric limitations when selecting and using an instrument, and must be cognizant of the limitations when interpreting the results.

(11) Professional Counselors shall ensure that appropriate interpretation accompanies any release of individual or group test data and shall obtain explicit prior understanding and consent when releasing results.

(12) Professional Counselors shall ensure that computer-generated test administration and scoring programs function properly thereby providing clients with accurate test results.

(13) Professional Counselors who develop computer-based test interpretations to support the assessment process shall ensure that the validity of the interpretations is established prior to the commercial distribution of the computer application.

(14) Professional Counselors shall recognize that test results may become obsolete and avoid the misuse of obsolete data.

(D) Research and Publication.

(1) Professional Counselors shall adhere to applicable legal and professional guidelines on research with human subjects.

(2) In planning research activities involving human subjects, Professional Counselors shall be aware of and responsive to all pertinent ethical principles and ensure that the research problem, design, and execution are in full compliance with any pertinent institutional or governmental regulations.

(3) The ultimate responsibility for ethical research lies with the principal researcher, although others involved in the research activities are ethically obligated and responsible for their own actions.

(4) Professional Counselors who conduct research with human subjects are responsible for the welfare of the subjects throughout the experiment and must take all reasonable precautions to avoid causing injurious psychological, physical, or social effects on their subjects.

(5) Professional Counselors who conduct research shall abide by the basic elements of informed consent:

(a) a fair explanation of the procedures to be followed, including an identification of those which are experimental; and

(b) a description of the attendant discomforts and risks; and

(c) a description of the benefits to be expected; and

(d) disclosure of appropriate alternative procedures that would be advantageous for subjects with an offer to answer any inquiries concerning the procedures; and

(e) an instruction that subjects are free to withdraw their consent and to discontinue participation in the project or activity at any time.

(6) When reporting research results, explicit mention shall be made of all the variables and conditions known to the investigator that may have affected the outcome of the study or the interpretation of the data.

(7) Professional Counselors who conduct and report research investigations shall do so in a manner that minimizes the possibility that the results will be misleading.

(8) Professional Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed to the research and/or publication, in accordance with such contributions.

(9) Professional Counselors shall communicate to other counselors the results of any research judged to be of professional value.

(E) Consulting.

(1) Professional Counselors, acting as consultants, must have a high degree of self awareness of their own values, knowledge, skills, limitations, and needs in entering a helping relationship that involves human and/or organizational change. The focus of the consulting relationship must be on the issues to be resolved and not on the persons presenting the problem.

(2) In the consulting relationship, the Professional Counselor and the client must understand and agree upon the problem definition, subsequent goals, and predicted consequences of interventions selected.

(3) Professional Counselors acting as consultants must be reasonably certain that they, or the organization represented, have the necessary competencies and resources for giving the kind of help that is needed or that may develop later, and that appropriate referral resources are available.

(4) Professional Counselors in a consulting relationship must encourage and cultivate client adaptability and growth toward self-direction. Professional Counselors must maintain this role consistently and not become a decision maker for clients or create a future dependency on the consultant.

(F) Private Practice.

(1) In advertising services as a private practitioner, Professional Counselors must advertise in a manner that accurately informs the public of the professional services, expertise, and techniques of counseling available.

(2) Professional Counselors who assume an executive leadership role in a private practice organization shall not permit their names to be used in professional notices during periods of time when they are not actively engaged in the private practice of counseling unless their executive roles are clearly stated.

(3) Professional Counselors shall make available their highest degree (described by discipline), type and level of certification, and/or license, address, telephone number, office hours, type and/or description of services,

and other relevant information. Listed information must not contain false, inaccurate, misleading, partial, out-of-context, or otherwise deceptive material or statements.

(4) Professional Counselors who are involved in a partnership/corporation with other certified counselors and/or other professionals, must clearly specify all relevant specialties of each member of the partnership or corporation.

36-23. Code of Ethics for Addiction Counselors.

(A) The Counseling Relationship

(1) Client Welfare: Addiction Counselors understand and accept their responsibility to ensure the safety and welfare of their client, and to act for the good of each client while exercising respect, sensitivity, and compassion. Providers shall treat each client with dignity, honor, and respect, and act in the best interest of each client.

(2) Informed Consent: Addiction Counselors understand the right of each client to be fully informed about treatment and shall provide clients with information in clear and understandable language regarding the purposes, risks, limitations, and costs of treatment services, reasonable alternatives, their right to refuse services, and their right to withdraw consent within time frames delineated in the consent. Providers have an obligation to review with their client - in writing and verbally - the rights and responsibilities of both Providers and clients. Providers shall have clients attest to their understanding of the parameters covered by the Informed Consent.

(3) Limits of Confidentiality: Addiction Counselors clarify the nature of relationships with each party and the limits of confidentiality at the outset of services when agreeing to provide services to a person at the request or direction of a third party.

(4) Addiction Counselors shall guard the individual rights and personal dignity of their clients in the counseling relationship through an awareness of the impact of stereotyping and unwarranted discrimination.

(5) Legal Competency: Addiction Counselors who act on behalf of a client who has been judged legally incompetent or with a representative who has been legally authorized to act on behalf of a client, shall act with the client's best interests in mind, and shall inform the designated guardian or representative of any circumstances which may influence the relationship. Providers recognize the need to balance the ethical rights of clients to make choices about their treatment, their capacity to give consent to receive treatment-related services, and parental/familial/representative legal rights and responsibilities to protect the client and make decisions on their behalf.

(6) Mandated Clients: Addiction Counselors who work with clients who have been mandated to counseling and related services shall discuss legal and ethical limitations to confidentiality.

(7) Multiple Therapists: Addiction Counselors shall seek to obtain a signed Release of Information from a potential or actual client if the client is working with another behavioral health professional. The Release shall allow the Provider to strive to establish a collaborative professional relationship.

(8) Multiple/Dual Relationships: Addiction Counselors shall make every effort to avoid multiple relationships with a client. When a dual relationship is unavoidable, the professional shall take extra care so that professional judgment is not impaired and there is no risk of client exploitation.

(9) Group: Addiction Counselors shall clarify who "the client" is, when accepting and working with more than one person as "the client." Provider shall clarify the relationship the Provider shall have with each person. In group counseling, Providers shall take reasonable precautions to protect the members from harm.

(10) Financial Disclosure: Addiction Counselors shall truthfully represent facts to all clients and third-party payers regarding services rendered, and the costs of those services.

(11) Communication: Addiction Counselors shall communicate information in ways that are developmentally and culturally appropriate. Providers offer clear understandable language when discussing

issues related to informed consent. Cultural implications of informed consent are considered and documented by Provider.

(12) Treatment Planning: Addiction Counselors shall create treatment plans in collaboration with their client. Treatment plans shall be reviewed and revised on an ongoing and intentional basis to ensure their viability and validity.

(13) Level of Care: Addiction Counselors shall provide their client with the highest quality of care. Providers shall use ASAM or other relevant criteria to ensure that clients are appropriately and effectively served.

(14) Documentation: Addiction Counselors and other Service Providers shall create, maintain, protect, and store documentation required per federal and state laws and rules, and organizational policies.

(15) Advocacy: Addiction Counselors are called to advocate on behalf of clients at the individual, group, institutional, and societal levels. Providers should speak out regarding barriers and obstacles that impede access to and/or growth and development of clients. When advocating for a specific client, Providers obtain written consent prior to engaging in advocacy efforts.

(16) Referrals: Addiction Counselors shall recognize that each client is entitled to the full extent of physical, social, psychological, spiritual, and emotional care required to meet their needs. Providers shall refer to culturally - and linguistically - appropriate resources when a client presents with any special needs that are beyond the scope of the Provider's education, training, skills, supervised expertise, and licensure.

(17) Exploitation: Addiction Counselors are aware of their influential positions with respect to clients, trainees, and research participants and shall not exploit the trust and dependency of any client, trainee, or research participant. Providers shall not engage in any activity that violates or diminishes the civil or legal rights of any client. Providers shall not use coercive treatment methods with any client, including threats, negative labels, or attempts to provoke shame or humiliation.

(18) Sexual Relationships: Addiction Counselors shall not engage in any form of sexual or romantic relationship with any current or former client for a period of 5 years after last professional contact, nor accept as a client anyone with whom they have engaged in a romantic, sexual, social, or familial relationship. This prohibition includes in-person and electronic interactions and/or relationships. Addiction Counselors are prohibited from engaging in counseling relationships with friends or family members with whom they have an inability to remain objective.

(19) Termination: Addiction Counselors shall terminate services with clients when services are no longer required, no longer serve the client's needs, or the Provider is unable to remain objective. Counselors provide pre-termination counseling and offer appropriate referrals as needed. Providers may refer a client, with supervision or consultation, when in danger of harm by the client or by another person with whom the client has a relationship

(20) Coverage: Addiction Counselors shall make necessary coverage arrangements to accommodate interruptions such as vacations, illness, or unexpected situation.

(21) Abandonment: Addiction Counselors shall not abandon any client in treatment. Providers who anticipate termination or interruption of services to clients shall notify each client promptly and seek transfer, referral, or continuation of services in relation to each client's needs and preferences.

(22) Fees: Addiction Counselors shall ensure that all fees charged for services are fair, reasonable, and commensurate with the services provided and with due regard for clients' ability to pay.

(23) Self-Referrals: Addiction Counselors shall not refer clients to their private practice unless the policies, at the organization at the source of the referral, allow for self-referrals. When self-referrals are not an option, clients shall be informed of other appropriate referral resources.

(24) Commissions: Addiction Counselors shall not offer or accept any commissions, rebates, kickbacks, bonuses, or any form of remuneration for referral of a client for professional services, nor engage in fee splitting.

(25) Enterprises: Addiction Counselors shall not use relationships with clients to promote personal gain or profit of any type of commercial enterprise.

(26) Bartering: Addiction Counselors can engage in bartering for professional services if: (a) the client requests it, (b) the relationship is not exploitative, (c) the professional relationship is not distorted, (d) federal and state laws and rules allow for bartering, and (e) a clear written contract is established with agreement on value of item(s) bartered for and number of sessions, prior to the onset of services. Providers consider the cultural implications of bartering and discuss relevant concerns with clients. Agreements shall be delineated in a written contract. Providers shall seek supervision or consultation in regards to the bartering agreement and document that interaction.

(27) Uninvited Solicitation: Addiction Counselors shall not engage in uninvited solicitation of potential clients who are vulnerable to undue influence, manipulation, or coercion due to their circumstances.

(B) Confidentiality and Privileged Communication

(1) Confidentiality: Addiction Counselors understand that confidentiality and anonymity are foundational to addiction treatment and embrace the duty of protecting the identity and privacy of each client as a primary obligation. Counselors communicate the parameters of confidentiality in a culturally-sensitive manner.

(2) Addiction Counselors shall adhere to all applicable federal and state laws and regulations in regards to documentation, accessibility of records, sharing, disclosures, privacy, limits of confidentiality, imminent danger, court subpoenas, payers, encryption, storage and disposal of records, video recording, federal regulations stamp, diseases, record transfer, temporary assistance, termination, and consultation.

(C) Professional Responsibilities and Workplace Standards

(1) Integrity: Addiction Counselors shall conduct themselves with integrity. Providers aspire to maintain integrity in their professional and personal relationships and activities. Regardless of medium, Providers shall communicate to clients, peers, and the public honestly, accurately, and appropriately.

(2) Nondiscriminatory: Addiction Counselors shall provide services that are nondiscriminatory and nonjudgmental. Providers shall not exploit others in their professional relationships. Providers shall maintain appropriate professional and personal boundaries.

(3) Fraud: Addiction Counselors shall not participate in, condone, or be associated with any form of dishonesty, fraud, or deceit.

(4) Harassment: Addiction Counselors shall not engage in or condone any form of harassment, including sexual harassment.

(5) Credentials: Addiction Counselors shall claim and promote only those licenses and certifications that are current and in good standing.

(6) Scope of Practice: Addiction Counselors shall provide services within their scope of practice and competency, and shall offer services that are science-based, evidence-based, and outcome-driven. Providers shall engage in counseling practices that are grounded in rigorous research methodologies. Providers shall maintain adequate knowledge of and adhere to applicable professional standards of practice.

(7) Proficiency: Addiction Counselors shall seek and develop proficiency through relevant education, training, skills, and supervised experience prior to independently delivering specialty services. Providers engage in supervised experience and seek consultation to ensure the validity of their work and protect clients from harm when developing skills in new specialty areas.

(8) Self-Monitoring: Addiction Counselors are continuously self-monitoring in order to meet their professional obligations. Providers shall engage in self-care activities that promote and maintain their physical, psychological, emotional, and spiritual well-being.

(9) Qualified: Addiction Counselors shall work to prevent the practice of addictions counseling by unqualified and unauthorized persons and shall not employ individuals who do not have appropriate and requisite education, training, licensure and/or certification in addictions.

(10) Advocacy: Providers shall be advocates for their clients in those settings where the client is unable to advocate for themselves.

(11) Referrals: Addiction Counselors shall not refer clients, or recruit colleagues or supervisors, from their places of employment or professional affiliation to their private practice without prior documented authorization. Providers shall offer multiple referral options to clients when referrals are necessary. Providers will seek supervision or consultation to address any potential or real conflicts of interest.

(12) Promotion: Addiction Counselors shall ensure that promotions and advertisements concerning their workshops, trainings, seminars, and products that they have developed for use in the delivery of services are accurate and provide ample information, so consumers can make informed choices. Addiction Counselors shall not use their counseling, teaching, training or supervisory relationships to deceptively or unduly promote their products or training events.

(13) Testimonials: Addiction Counselors shall be thoughtful when they solicit testimonials from former clients or any other persons. Providers shall discuss with clients the implications of and potential concerns,

regarding testimonials, prior to obtaining written permission for the use of specific testimonials. Providers shall seek consultation or supervision prior to seeking a testimonial.

(14) Reports: Addiction Counselors shall take care to accurately, honestly and objectively report professional activities and judgments to appropriate third parties (i.e., courts, probation/parole, healthcare insurance organizations and providers, recipients of evaluation reports, referral sources, professional organizations, regulatory agencies, regulatory boards, ethics committees, etc.).

(15) Advice: Addiction Counselors shall take reasonable precautions, when offering advice or comments (using any platform including presentations and lectures, demonstrations, printed articles, mailed materials, television or radio programs, video or audio recordings, technology-based applications, or other media), to

ensure that their statements are based on academic, research, and evidence-based, outcome-driven literature and practice.

(16) Dual Relationship: When Addiction Counselors are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, they shall clarify role expectations and the parameters of confidentiality with their colleagues.

(17) Illegal Practices: When Addiction Counselors become aware of inappropriate, illegal, and/or unethical policies, procedures and practices at their agency, organization, or practice, they shall alert their employers. When there is the potential for harm to clients or limitations on the effectiveness of services provided, Providers shall seek supervision and/or consultation to determine appropriate next steps and further action. Providers and Supervisors shall not harass or terminate an employee or colleague who has acted in a responsible and ethical manner to expose inappropriate employer employee policies, procedures and/ or practices.

(18) Credit: Addiction Counselors shall give appropriate credit to the authors or creators of all materials used in their course of their work. Providers shall not plagiarize another person's work.

(D) E-Therapy, E-Supervision and Social Media

(1) Definition: "E-Therapy" and "E-Supervision" shall refer to the provision of services by an Addiction Counselor using technology, electronic devices, and HIPAA-compliant resources. Electronic platforms shall include and are not limited to: land-based and mobile communication devices, fax machines, webcams, computers, laptops and tablets. E-therapy and e-supervision shall include and are not limited to: tele-therapy, real-time video-based therapy and services, emails, texting, chatting, and cloud storage. Providers and Clinical Supervisors are aware of the unique challenges created by electronic forms of communication and the use of available technology, and shall take steps to ensure that the provision of e-therapy and e-supervision is safe and as confidential as possible.

(2) Competency: Addiction Counselors who choose to engage in the use of technology for e-therapy, distance counseling, and e-supervision shall pursue specialized knowledge and competency regarding the technical, ethical, and legal considerations specific to technology, social media, and distance counseling. Competency shall be demonstrated through means such as specialized certifications and additional course work and/or trainings.

(3) Informed Consent: Addiction Counselors, who are offering an electronic platform for e-therapy, distance counseling/case management, e-supervision shall provide an Electronic/Technology Informed Consent. The electronic informed consent shall explain the right of each client and supervisee to be fully informed about services delivered through technological mediums, and shall provide each client/supervisee with information in clear and understandable language regarding the purposes, risks, limitations, and costs of treatment services, reasonable alternatives, their right to refuse service delivery through electronic means, and their right to withdraw consent at any time. Providers have an obligation to review with the client/supervisee – in writing and verbally – the rights and responsibilities of both Providers and clients/supervisees. Providers shall have the client/ supervisee attest to their understanding of the parameters covered by the Electronic/Technology Informed Consent.

(4) Verification: Addiction Counselors who engage in the use of electronic platforms for the delivery of services shall take reasonable steps to verify the client's/supervisee's identity prior to engaging in the e-therapy relationship and throughout the therapeutic relationship. Verification can include, but is not limited to, picture ids, code words, numbers, graphics, or other nondescript identifiers.

(5) Missing Cues: Addiction Counselors shall acknowledge the difference between face-to-face and electronic communication (nonverbal and verbal cues) and how these could influence the counseling/supervision process. Providers shall discuss with their client/supervisee how to prevent and address potential misunderstandings arising from the lack of visual cues and voice inflections when communicating electronically.

(6) Links: Addiction Counselors who provide e-therapy services and/or maintain a professional website shall provide electronic links to relevant licensure and certification boards to protect the client's/supervisee's rights and address ethical concerns.

(7) Friends: Addiction Counselors shall not accept clients' "friend" requests on social networking sites or email (from Facebook, Instagram, etc.), and shall immediately delete all personal and email accounts to which they have granted client access and create new accounts. When Providers choose to maintain a professional and personal presence for social media use, separate professional and personal web pages and profiles are created that clearly distinguish between the professional and personal virtual presence.

(8) Social Media: Addiction Counselors shall clearly explain to their clients/supervisees, as part of informed consent, the benefits, inherent risks including lack of confidentiality, and necessary boundaries surrounding the use of social media. Providers shall clearly explain their policies and procedures specific to the use of social media in a clinical relationship. Providers shall respect the client's/supervisee's rights to privacy on social media and shall not investigate the client/supervisee without prior consent.

(E) Research and Publication

(1) Research: Research and publication shall be encouraged as a means to contribute to the knowledge base and skills within the addictions and behavioral health professions. Research shall be encouraged to contribute to the evidence-based and outcome-driven practices that guide the profession. Research and publication provide an understanding of what practices lead to health, wellness, and functionality. Researchers and Addiction Counselors make every effort to be inclusive by minimizing bias and respecting diversity when designing, executing, analyzing, and publishing their research.

(2) Consistent: Researchers plan, design, conduct, and report research in a manner that is consistent with relevant ethical principles, federal and state laws, internal review board expectations, institutional regulations, and scientific standards governing research.

(3) Confidentiality: Researchers are responsible for understanding and adhering to state, federal, agency, or institutional policies or applicable guidelines regarding confidentiality in their research practices. Information obtained about participants during the course of research is confidential.

(4) Protect: Researchers shall seek supervision and/or consultation and observe necessary safeguards to protect the rights of research participants, especially when the research plan, design and implementation deviates from standard or acceptable practices.

(5) Clients: Researchers may conduct research involving clients. Researchers shall provide an informed consent process allowing clients to freely, without intimidation or coercion, choose whether to participate in the research activities. Researchers shall take necessary precautions to protect clients from adverse consequences if they choose to decline or withdraw from participation.

(6) Explanation: Once data collection is completed, Researchers shall provide participants with a full explanation regarding the nature of the research in order to remove any misconceptions participants might have regarding the study.

(7) Publication: Addiction Counselors who author books, journal articles, or other materials which are published or distributed shall not plagiarize or fail to cite persons for whom credit for original ideas or work is due. Providers shall acknowledge and give recognition, in presentations and publications, to previous work on the topic by self and others.

(8) e-publishing: Addiction Counselors shall recognize that entering data on the internet, social media sites, or professional media sites constitutes publishing.

(9) Credit: Addiction Counselors shall assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

(10) Student Material: Addiction Counselors shall seek a student's permission and list the student as lead author on manuscripts or professional presentations, in any medium, that are substantially based on a student's course papers, projects, dissertations, or theses. The student reserves the right to withhold permission.

(11) Proprietary: Addiction Counselors who review material submitted for publication, research, or other scholarly purposes shall respect the confidentiality and proprietary rights of those who submitted it. Providers who serve as reviewers shall make every effort to only review materials that are within their scope of competency and to review materials without professional or personal bias.

36-24. Code of Ethics for Marriage and Family Therapists.

(A) Responsibility to Clients.

(1) Marriage and Family Therapists shall not discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientation.

(2) Marriage and Family Therapists shall not exploit the trust and dependency of clients and shall avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Marriage and Family Therapists shall not engage in sexual

relationships with clients and shall not engage in sexual relationships with former clients for at least two (2) years following the termination of therapy.

(3) Marriage and Family Therapists shall not use their professional relationships with clients to further their own interests.

(4) Marriage and Family Therapists shall respect the right of clients to make decisions and help them to understand the consequences of their decisions. Therapists shall clearly advise clients that a decision as to marital status is the responsibility of the client.

(5) Marriage and Family Therapists shall continue therapeutic relationships so long as is reasonably clear that clients are benefitting from the relationship.

(6) Marriage and Family Therapists shall assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

(7) Marriage and Family Therapists shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

(8) Marriage and Family Therapists shall obtain written informed consent from clients before videotaping, audio recording, or permitting third party observation.

(B) Confidentiality.

(1) Marriage and Family Therapists shall not disclose client confidences except as mandated by law or described in this chapter.

(2) Marriage and Family Therapists may use client and/or clinical materials in teaching, writing, and public presentations only if the client has executed a written waiver or when appropriate steps have been taken to protect the identity of the client.

(3) Marriage and Family Therapists shall store or dispose of all client records in a manner that will protect confidentiality.

(C) Professional Competence and Integrity.

(1) Marriage and Family Therapists shall immediately notify all appropriate agencies, including, but not limited to the Board, of any criminal conviction; of any conduct which may lead to a conviction; any actions disciplining or expelling them from any professional organization; suspension, revocation, or other discipline by any regulatory body; of incompetency due to physical or mental causes or the abuse of alcohol or other substances.

(2) Marriage and Family Therapists shall seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

(3) Marriage and Family Therapists who function as teachers, supervisors, or researchers shall maintain the highest standards of scholarship and present accurate information.

(4) Marriage and Family Therapists shall remain abreast of new developments in knowledge and practice through educational activities.

(5) Marriage and Family Therapists shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in investigations and ethical proceedings.

(6) Marriage and Family Therapists shall not diagnose, treat, or advise on problems outside the recognized boundaries of their competence, as established by the Board.

(7) Marriage and Family Therapists shall make every effort to prevent the distortion or misuse of their clinical and research findings.

(8) Marriage and Family Therapists shall exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

(D) Responsibility to Students, Employees, and Supervisees.

(1) Marriage and Family Therapists shall not exploit the trust and dependency of students, employees, and supervisees and shall avoid dual relationships that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. A Marriage and Family Therapist shall not provide therapy to an employee, student or supervisee. Sexual intimacy with students, or supervisees is prohibited.

(2) Marriage and Family Therapists shall not permit students, employees, or supervisees to perform or hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

(3) Marriage and Family Therapists shall not disclose supervisee confidences except as mandated by law and described in this chapter.

(E) Responsibility to Research Participants.

(1) Marriage and Family Therapists functioning as investigators shall make careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, Marriage and Family Therapists shall seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of the research participants.

(2) Marriage and Family Therapists functioning as investigators shall inform research participants of all aspects of the research that might reasonably be expected to influence willingness to participate. Marriage and Family Therapists shall be sensitive to the possibility of diminished consent when participants are receiving clinical services, have impairments which limit understanding and/or communication, or when participants are children.

(3) Marriage and Family Therapists functioning as investigators shall respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when Marriage and Family Therapists or other members of the research team are in positions of authority or influence over participants. Therapists shall make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.

(4) Marriage and Family Therapists shall maintain confidentiality during any investigation unless there is a waiver obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

(F) Responsibility to the Profession.

(1) Marriage and Family Therapists shall maintain the standards of the profession when acting as members or employees of organizations.

(2) Marriage and Family Therapists shall assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

(3) Marriage and Family Therapists who are the authors of books shall cite persons to whom credit for original ideas is due.

(4) Marriage and Family Therapists who are the authors of books or other materials published or distributed by an organization shall take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

(5) Marriage and Family Therapists should participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

(6) Marriage and Family Therapists should be concerned with developing laws and regulations pertaining to the practice of marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

(7) Marriage and Family Therapists should encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

(G) Financial Arrangements.

(1) Marriage and Family Therapists shall not offer or accept payment for referrals.

(2) Marriage and Family Therapists shall not charge excessive fees for services and shall not barter therapy services.

(3) Marriage and Family Therapists shall disclose their fees to clients and supervisees at the initiation of services.

(4) Marriage and Family Therapists shall represent facts truthfully to clients, third party payors, and supervisees regarding the services rendered.

(H) Advertising.

(1) Marriage and Family Therapists shall accurately represent their competence, education, training, and experience relevant to their practice of marriage and family therapy.

(2) Marriage and Family Therapists shall assure that advertisements and publications in any media conveys information that is necessary for the public to make an appropriate selection of professional services.

(3) Marriage and Family Therapists shall not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and shall not hold themselves out as being partners or associates of a firm when they are not.

(4) Marriage and Family Therapists shall not use any professional identification if it includes any statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it:

(a) contains any material misrepresentation of fact; or

(b) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or

(c) is intended to or is likely to create an unjustified expectation.

(5) Marriage and Family Therapists shall correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

(6) Marriage and Family Therapists shall insure that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.

(7) Marriage and Family Therapists may represent themselves as specializing within a limited area of marriage and family therapy, but shall not advertise specialization in any area unless they have the education and supervised experience in settings which meet recognized professional standards to practice in that specialty area.

36-25. Code of Ethics for Psycho-educational Specialists.

(A) Professional Competency.

(1) Psycho-educational Specialists shall recognize the strengths and limitations of their training and experience and engage only in practices for which they are qualified.

(2) Psycho-educational Specialists shall represent competence levels, education, training, and experience accurately and in a professional manner.

(3) Psycho-educational Specialists shall not use affiliations with persons, associations, or institutions to imply a level of professional competence exceeding that actually achieved.

(4) Psycho-educational Specialists shall enlist the assistance of other specialists in supervisory, consultative, or referral roles as appropriate in providing services.

(5) Psycho-educational Specialists shall refrain from any activity in which their personal problems or conflicts may interfere with professional effectiveness. Competent assistance is sought to alleviate conflicts in professional relationships.

(B) Professional Relationships and Responsibilities.

(1) Psycho-educational Specialists shall apply their professional expertise for the purpose of promoting improvement in the quality of life for students, their families, and the school community.

(2) Psycho-educational Specialists shall respect all persons and must be sensitive to physical, mental, emotional, political, economic, social, cultural, ethnic, and racial characteristics, gender and sexual orientation, and religion.

(3) Psycho-educational Specialists shall be responsible for the direction and nature of their personal loyalties or objectives. When these commitments may influence a professional relationship, the Psycho-educational Specialist shall inform all concerned persons of relevant issues in advance.

(4) Psycho-educational Specialists shall maintain professional relationships with students, parents, the school, and community. Parents and students must be fully informed about all relevant aspects of services in advance, taking into account language and cultural differences, cognitive capabilities, developmental level, and age so that the explanation may be understood by the student, parent, or guardian.

(5) Psycho-educational Specialists shall attempt to resolve situations in which there are divided or conflicting interests in a manner which is mutually beneficial and protective of the rights of all parties involved.

(6) Psycho-educational Specialists shall not exploit clients through professional relationships nor condone these actions in their colleagues. All individuals, including students, clients, employees, colleagues, and research participants, shall not be exposed to deliberate comments, gestures, or physical contacts of a sexual nature. Psycho-educational Specialists shall not harass or demean others based on personal characteristics nor engage in sexual relationships with their students, supervisees, trainees, or past or present clients.

(7) Psycho-educational Specialists shall not enter into personal or business relationships with students/clients or their students'/clients' parents.

(8) Psycho-educational Specialists shall notify the Board if aware of a suspected detrimental or unethical practice of another professional.

(9) Psycho-educational Specialists shall respect the confidentiality of information obtained during their professional work and reveal this information only with the informed consent of the client, or the client's parent or legal guardian, except as provided by law.

(C) Students.

(1) Psycho-educational Specialists shall engage only in professional practices which maintain the dignity and integrity of students and other clients.

(2) Psycho-educational Specialists shall explain important aspects of their professional relationships with students and clients in a clear, understandable manner, including the reason why services were requested, who will receive information about the services provided, and the possible outcomes.

(3) When a child initiates services, Psycho-educational Specialists shall respect the right of the student or client to initiate, participate in, or discontinue services voluntarily. When another party initiates services, the Psycho-educational Specialists shall make every effort to secure voluntary participation of the child/student.

(4) Psycho-educational Specialists shall discuss recommendations, including all alternatives available.

(D) Parents, Legal Guardians, and Appointed Surrogates.

(1) Psycho-educational Specialists shall explain all services to parents in a clear, understandable manner, and explain options taking into account the values and capabilities of each parent. Provision of services by associates, practicum students, and other unlicensed personnel must be explained and agreed to in advance.

(2) Psycho-educational Specialists shall assure that there is direct parent contact prior to seeing the student/client on an on-going basis. Frank and prompt reporting to the parent of findings and progress shall be made so long as it conforms to the limits of confidentiality.

(3) Psycho-educational Specialists shall encourage and promote parental participation in designing services provided to their children, including when appropriate, linking interventions between the school and the home, tailoring parental involvement to the skills of the family, and helping parents to gain the skills needed to help their children.

(4) Psycho-educational Specialists shall respect the wishes of parents who object to services and attempt to guide parents to alternative community resources.

(5) Psycho-educational Specialists shall discuss recommendations and plans for assisting the student/client with the parent. The discussion must include alternatives associated with each set of plans, showing respect for the ethnic/cultural values of the family. The parents must be advised as to sources of help available at school and in the community.

(6) Psycho-educational Specialists shall discuss the rights of parents and students regarding creation, modification, storage, and disposal of confidential materials.

(E) Service Delivery.

(1) Psycho-educational Specialists shall be knowledgeable of the organization, philosophy, goals, objections, and methodologies of the setting in which they are employed.

(2) Psycho-educational Specialists shall recognize that an understanding of the goals, processes, and legal requirements of their particular workplace is essential for effective functioning within that setting.

(3) Psycho-educational Specialists shall become integral members of the client systems to which they are assigned.

(4) Psycho-educational Specialists providing services to several different groups must disclose potential conflicts of interest to all parties.

(F) Community.

(1) Psycho-educational Specialists shall not engage in or condone practices that discriminate against clients based on race, handicap, age, gender, sexual orientation, religion, national origin, economic status, or native language.

(2) Psycho-educational Specialists shall avoid any action that could violate or diminish the civil or legal rights of clients.

(3) Psycho-educational Specialists shall adhere to federal, state, and local laws and ordinances governing their practice.

(G) Related Professional.

(1) Psycho-educational Specialists shall cooperate with other professional disciplines in relationships based on mutual respect.

(2) Psycho-educational Specialists shall encourage and support the use of all resources to best serve the interests of students and clients.

(3) Psycho-educational Specialists shall explain their field and their professional competencies, including roles, assignments, and working relationships to other professionals.

(4) Psycho-educational Specialists shall cooperate and coordinate with other professionals and agencies with the rights and needs of their clients in mind and must promote coordination of services.

(5) Psycho-educational Specialists shall refer a student or client to another professional for services whenever a condition is identified which is outside the professional's competencies or scope of practice.

(6) Psycho-educational Specialists shall ensure that all relevant and appropriate individuals, including the student/client when appropriate, are notified when transferring the intervention responsibility.

(H) Other Psycho-educational Specialists.

(1) Psycho-educational Specialists who employ, supervise, or train other professionals shall provide continuing professional development and must provide appropriate working conditions, fair and timely evaluations, and constructive consultation.

(2) Psycho-educational Specialists who supervise associates shall be responsible for all professional practices of the supervisee and assure the students/clients and the profession that the associate is adequately supervised.

(I) Advocacy.

(1) Psycho-educational Specialists shall be responsible to students/clients when acting as advocates for their rights and welfare.

(2) Psycho-educational Specialists shall communicate to the school administration and staff service options, taking into consideration the primary concern for protecting the rights and welfare of students.

(J) Assessment and Intervention.

(1) Psycho-educational Specialists shall maintain the highest standards for educational and psycho-educational assessment.

(2) In conducting psycho-educational, educational, or behavioral evaluations, or in providing therapy, counseling, or consultation services, Psycho-educational Specialists must give consideration to individual integrity and individual differences.

(3) Psycho-educational Specialists shall respect the differences in age, gender, sexual orientation, and socioeconomic, cultural and ethnic backgrounds and must select and use appropriate assessment or treatment procedures, techniques, and strategies.

(4) Psycho-educational Specialists must maintain knowledge about the validity and reliability of their instruments and techniques so as to choose those that have up-to-date standardization data and are applicable and appropriate for the benefit of the student/client.

(5) Psycho-educational Specialists shall not condone the use of psycho-educational assessment techniques, or the mis-use of the information these techniques provide, by unqualified persons in any way, including teaching, sponsorship, or supervision.

(6) Psycho-educational Specialists shall develop interventions which are appropriate to the presenting problems and are consistent with data collected and must modify or terminate the treatment plan when the data indicate the plan is not achieving the desire goals.

(K) Use of Materials and Technology.

(1) Psycho-educational Specialists shall maintain test security, preventing the release of underlying principles and specific content that would undermine the use of the device, and shall be responsible for the security requirements specific to each instrument used.

(2) Psycho-educational Specialists shall abide by all copyright laws and obtain permission from the authors before reproducing un-copyrighted published instruments.

(3) Psycho-educational Specialists shall obtain written prior consent or remove identifying data presented in public lectures or publications.

(4) When producing materials for consultation, intervention, teaching, public lectures, or publication, Psycho-educational Specialists shall acknowledge sources and assign credit to those whose ideas are reflected in the product.

(5) Psycho-educational Specialists shall not promote or encourage inappropriate use of computer generated test analyses or reports and must select scoring and interpretation services on the basis of accuracy and professional alignment with the underlying decision rules.

(6) Psycho-educational Specialists shall bear responsibility for any technological services used. All ethical and legal principles regarding confidentiality, privacy, and responsibility for decisions apply to the Psycho-educational Specialist and cannot be transferred to equipment, software companies, or data processing departments.

(7) Technological devices shall be used to improve the quality of client services.

(L) Research, Publication, and Presentation.

(1) Psycho-educational Specialists shall, when designing and implementing research in schools, employ research methodology, subject selection techniques, data gathering methods, and analysis and reporting techniques which are grounded in sound research practice.

(2) Psycho-educational Specialists working in agencies without review committees shall have peer review prior to initiating research.

(3) In publishing reports of their research, Psycho-educational Specialists shall provide discussion of limitations of their data and acknowledge existence of disconfirming data, as well as alternate hypotheses and explanations of their findings.

(M) Relationships with School Districts.

(1) Psycho-educational Specialists employed in both the public and private sector shall separate their roles and protect and completely inform the consumer of all potential conflicts of interest or concerns.

(2) Psycho-educational Specialists shall not accept any form of remuneration from clients who are entitled to the same service provided by the same Psycho-educational Specialists while working in the public sector. This prohibition includes students who attend the non-public schools within the public school assignment area.

(3) Psycho-educational Specialists in private practice shall inform parents of any free school psycho-educational services available from the public or private schools prior to delivering such services for remuneration.

(4) Psycho-educational Specialists shall conduct all private practice outside of the hours of contracted public employment.

(5) Psycho-educational Specialists engaged in private practice shall not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer, unless approved in advance through a written agreement.

(6) Psycho-educational Specialists shall not barter psycho-educational services.

(N) Service Delivery.

(1) Psycho-educational Specialists shall conclude a financial agreement in advance of service delivery.

(2) Psycho-educational Specialists shall ensure to the best of their ability that the client clearly understands the financial agreement.

(3) Psycho-educational Specialists shall not give or receive any remuneration for referring clients for professional services.

(4) Psycho-educational Specialists in private practice shall adhere to the conditions of a contract until service thereunder has been performed, the contract has been terminated by mutual consent, or has otherwise been legally terminated.

(5) Psycho-educational Specialists shall not engage in personal diagnosis and therapy by means of public lectures, newspaper columns, magazine articles, radio or television programs, or mail.

(O) Announcements/Advertising.

(1) Psycho-educational Specialists shall present accurate representations of training, experience, services provided, and affiliations, and shall advertise these in a restrained manner.

(2) Listings in telephone directories shall be limited to name, highest relevant degree, state certification/licensure status as provided for by statute, address, telephone number, brief identification of major areas of practice, office hours, appropriate fee information, foreign languages spoken, policy regarding third party payments, and license number.

(3) Announcements of services by Psycho-educational Specialists in private practice shall be made in a formal, professional manner, using the guidelines for advertising in the telephone directory. In addition, clear statements of purposes with unequivocal descriptions of the experiences to be provided shall be given, along with education, training, and experience of all staff members appropriately specified.

(4) Psycho-educational Specialists in private practice shall not directly solicit clients for individual diagnosis or therapy.

(5) Psycho-educational Specialists shall not compensate in any manner a representative of the press, radio, or television in return for professional publicity in a news item.

36-26. Code of Ethics for All Supervisors.

In addition to following the profession's Code of Ethics, supervisors and candidates for supervisor's license shall:

1. Ensure that supervisees inform clients of their professional status and of all conditions of supervision. Supervisors need to ensure that supervisees inform their clients of any status other than being fully qualified for independent practice or licensed. For example, supervisees need to inform their clients if they are a student, associate, and trainee or, if licensed with restrictions, the nature of those restrictions. In addition, clients must be informed of the requirements of supervision (e.g., the audio taping of counseling sessions for purposes of supervision).

2. Ensure that clients have been informed of their rights to confidentiality and privileged communication when applicable. Clients also should be informed of the limits of confidentiality and privileged communication. The general limits of confidentiality are when harm to self or others is threatened; when the abuse of children, elders or disabled persons is suspected and in cases when the court compels the counselor to testify and break confidentiality. These are generally accepted limits to confidentiality and privileged communication, but they may be modified by state or federal statute.

3. Inform supervisees about the process of supervision, including supervision goals, case management procedures, and the supervisor's preferred supervision model(s).

4. Keep and secure supervision records and consider all information gained in supervision as confidential.

5. Avoid all dual relationships with supervisees that may interfere with the supervisor's professional judgment or exploit the supervisee. Refrain from supervision of current or former clients.

Although all dual relationships are not in of themselves inappropriate, any sexual relationship is considered to be a violation. Sexual relationship means sexual contact, sexual harassment, or sexual bias toward a supervisee by a supervisor.

6. Establish procedures with their supervisees for handling crisis situations.

7. Provide supervisees with adequate and timely feedback as part of an established evaluation plan, including completion of all Board required forms regarding supervision of supervisees.

8. Render assistance to any supervisee who is unable to provide adequate counseling services to clients.

9. Intervene in any situation where the supervisee is impaired and the client is at risk.

10. Refrain from endorsing an impaired supervisee when it is unlikely that the supervisee can provide adequate counseling services.

11. Refrain from offering supervision outside of the supervisor's area(s) of competence.

12. Ensure that supervisees are aware of the current ethical standards related to their professional practice, as approved by the Board, as well as legal standards that regulate their professional practice.

13. Engage supervisees in an examination of cultural issues that might affect supervision and/or counseling.

14. Ensure that both supervisees and clients are aware of their rights and of due process procedures.

ARTICLE 8
STANDARDS FOR SUPERVISION

36-27. Standards for Supervision.

A. Supervision of Clinical Contact

The process of supervision shall encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions or review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the supervisee's self-reports, micro-training, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

B. Acceptable Supervisor

1. Supervisees beginning their period of supervision shall be supervised by a supervisor authorized by this Board or a qualified licensed mental health practitioner approved by this Board.

2. A supervisor shall not be related to the supervisee in any of the following relationships: spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, present stepparent, or present stepchild.

C. Role of the Supervisor

1. The supervisor shall provide nurturance and support to the supervisee, explaining the relationship of theory to practice, suggesting specific actions, assisting the supervisee in exploring various models for practice, and challenging discrepancies in the supervisee's practice.

2. The supervisor shall ensure that the counseling clinical contact is completed in appropriate professional settings and with adequate administrative and clerical controls.

3. The supervisor shall ensure the supervisee's familiarity with important literature in the appropriate field of practice.

4. The supervisor shall model effective practice.

5. The supervisor shall supervise no more than twelve supervisees for direct client contact hours in immediate supervision of individual or group supervision.

6. The supervisor shall provide written reports as required by the Board and shall be available for consultation with the Board or its committees regarding the supervisee's competence for licensure.

D. Supervision must occur in accordance with the following guidelines:

1. The Plan for Supervision shall be completed by each supervisor and submitted to the Board. Following the completion of supervision the Confirmation of Clinical Supervision form supported by a log of hours and any written confirmation that the Board may require to support the hours noted shall be completed and mailed to the Board.

2. The process of supervision shall be outlined in a contract for supervision written between the supervisor and supervisee. This contract must address supervision issues including, but not limited to, the following:

a. clarification of whether supervision will be individual, group or both; and

b. clarification of where, when and for what length of time supervision will occur and the consistency required; and

c. any fee for the supervision including cancellation policy for supervisor and supervisee; and

d. the availability of the supervisor in therapeutic emergencies and a clearly stated process for addressing suicidal or homicidal ideation or other high-risk situations; and

e. confidentiality issues and record keeping including the process for responding to subpoenas, requests for records or other client information and a clearly stated process for protecting client's confidentiality; and

f. knowledge of and commitment to abide by the code of ethics and applicable federal and state laws; and

g. boundary issues including but not limited to personal issues (i.e. dual relationships, gifts, self disclosure); and

h. release of information form for supervisor and the supervisee to exchange information with other supervisors of person supervised; and

i. clarification of the duties of the supervisor and the supervisee such as: caseload report; preparation for supervision; documentation of diagnosis, treatment plan and session notes; time of supervisory sessions to be spent listening or watching tapes and/or observing; homework assignments including familiarity with important literature in the field; appropriate professional settings with adequate administrative and clerical controls; and

j. the development of a learning plan addressing widely accepted treatment models and methodology; and

k. procedure and schedule to review performance including self-evaluation, client satisfaction surveys and feedback to the Supervisor and supervisee; and

l. procedure to review or amend contract and/or Plan for Supervision.

3. Acceptable modes for supervision of direct clinical contact are the following:

a. Individual/triadic supervision: an acceptable supervisor conducts the supervisory session with no more than two supervisees present for a period of at least one-hour. It is suggested that contracts for individual/triadic supervision occur in specified blocks of time.

b. Group supervision: an acceptable supervisor with no more than six supervisees present for a period of at least two hours conducts the supervisory session. It is suggested that contracts for group supervision occur in specified blocks of time.

4. The Board generally considers none of the following as appropriate for supervision:

a. any supervision conducted by a current or former family member or other person connected to the supervisee in such a way that would prevent or make difficult the establishment of a professional relationship.

b. peer supervision, consultation, or professional or staff development
c. administrative supervision
d. any process that is primarily didactic or involves teaching or training in a workshop, seminar or classroom format, including continuing education
e. supervision of more than twelve supervisees at any given time.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will add licensure qualifications, educational requirements, a code of ethics, and other associated criteria for the regulation of addiction counselors to conform to the requirements of Act 249 of 2018 and to update existing regulations.

Document No. 4851
DEPARTMENT OF LABOR, LICENSING AND REGULATION
PANEL FOR DIETETICS
CHAPTER 40
Statutory Authority: 1976 Code Sections 40-1-70 and 40-20-50

40-5.2. Licensure by Registration.
40-5.3. Licensure by Endorsement.

Synopsis:

The Panel for Dietetics proposes to amend 40-5.2 and 40-5.3 to eliminate redundancy.

A Notice of Drafting was published in the *State Register* on September 28, 2018.

Instructions:

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

Text:

40-5.2. Licensure by Registration.
An applicant for licensure based on registration by the Commission on Dietetic Registration shall submit to the Panel:
(1) The completed application on the forms approved by the Panel along with required fees. Electronic submission is acceptable.
(2) A photograph of the applicant. Only a passport type (2” × 2”) photo taken within the past twelve (12) months will be accepted.
(3) A copy of the valid current registration card from the Commission on Dietetic Registration.
(4) The Panel may request additional verification of any requirements or credentials as it may deem necessary.

40-5.3. Licensure by Endorsement.
An applicant for licensure by endorsement must hold a current, active, and unrestricted license under the laws of another state or territory that had requirements that were, at the date of licensure, equivalent to the requirements in effect at the time of the application in South Carolina; and must submit:

(1) The completed application on a form approved by the panel, along with the required fees. Electronic submission is acceptable.

(2) A photograph of the applicant. Only a passport type (2" × 2") photo taken within the past twelve (12) months will be accepted.

(3) A copy of the valid current registration card from Commission on Dietetic Registration.

(4) The Panel may request additional verification of any requirements or credentials as it may deem necessary.

(5) If an applicant seeks licensure on the basis that the applicant has met equivalent requirements in another state or foreign country, the applicant shall attach to the application proof that the requirements of the other state or foreign country are equivalent to those of this state, unless the panel has taken action recognizing that the requirements of the other state or foreign country to be waived are equivalent to similar requirements in this state.

Fiscal Impact Statement:

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

Statement of Rationale:

The purpose of this regulation is to reduce the burden of requesting that an official copy of a transcript from a degree-granting institution of higher education be sent to the Panel for its review in circumstances where the national credentialing body has already reviewed and approved the same.

Document No. 4824
DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
CHAPTER 79
Statutory Authority: 1976 Code Section 40-29-10(D)(3)-(7)

79-42. Manufactured Home Installation Requirements.

Synopsis:

The South Carolina Manufactured Housing Board proposes to amend its regulations relating to the installation of manufactured homes.

A Notice of Drafting was published in the *State Register* on July 27, 2018.

Instructions:

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

Text:

79-42. Manufactured Home Installation Requirements.

A. Scope and Applicability. All new manufactured homes in the State of South Carolina must be installed per the Manufacturers Installation Instructions or in the event the Manufacturers installation instructions are not available for a new home, the home must be installed per the requirements of 24 CFR Part 3285. All used manufactured homes, without manufacturers installation instructions, shall be installed per the requirements of this Section. The Manufacturers Installation Instructions and the requirements of this Section shall preempt any existing local standard. (See paragraph G).

B. Manufactured Home Installation. The Federal Manufactured Home Construction and Safety Standards Program (24 CFR 3280, 3282 and 3285) requires that all manufactured homes be provided with installation instructions covering foundation, anchoring, utility connections, and other items. Where such installation instructions are provided, they shall be followed and supplemented by this regulation. In the event that conditions exist that do not meet, or are not covered in, the Manufacturers Installation instructions, or the installer chooses an alternative design for an installation, any alternative design must be prepared by a design professional and approved by the manufacturer and its Design Approval Primary Inspection Agency (DAPIA) before the home is set.

1. Foundation Systems for Manufactured Homes. A Manufactured Home Foundation System is one constructed in accordance with the foundation system included in the manufacturer's installation instructions, supplemented by the requirements of these regulations. The manufacturer or homeowner shall be permitted to design for unusual installation not provided for in the manufacturer's standard installation instructions, provided a licensed professional engineer or architect approves the design in writing. When the manufacturer's instructions are not available, Table 1 in Appendix A indexes information for the design of manufactured home foundation systems which meet the minimum criteria established in this regulation.

2. Manufactured Homes with Manufacturer's Instructions. The manufacturer's instructions include a typical foundation system designed by a registered professional engineer or architect to support the anticipated loads specified in the manufacturer's installation instructions for the design zone (including climate) of installation, and shall meet the requirements of these regulations. These instructions shall be provided with the home following installation as required by 24 C.F.R., Parts 3280, 3282, and 3285(42 U.S.C. 5401 et seq.).

3. Manufactured Home Stabilizing Devices and Design. Each manufactured home, upon being installed on a manufactured home stand, shall have stabilizing devices, or shall be installed on a foundation constructed in accordance with the South Carolina Residential Code. Stabilizing devices not provided with the manufactured home shall be listed or labeled to meet or exceed the design and capacity requirements of the manufactured home manufacturer's installation instructions and these regulations.

a. Anchoring.

(1) Each manufactured ground anchor shall be listed and installed in accordance with the terms of its listing and the anchor manufacturer's instructions and shall include means of attachment of ties meeting the requirements of paragraph (B) (3) (b) (v). Ground anchor manufacturer's installation instructions shall include tensioning adjustments which may be needed to prevent damage to the manufactured home, particularly damage that can be caused by frost heave.

(2) Each ground anchor shall have the manufacturer's identification and listed model identification number marked thereon so that the number is visible after installation. Instructions shall accompany each listed ground anchor specifying the types of soil for which the anchor is suitable under the requirements of paragraph (B) (3) (b) (4) (a).

(3) Ground anchors, including means for attaching ties, shall be located to effectively match the anchoring system instructions provided by the manufactured home manufacturer, or, if there are no instructions, in accordance with the requirements of this section.

(4) If concrete slabs or continuous footings are used to transfer the anchoring loads to the ground, the following shall be required:

(a) Steel rods cast in concrete shall be capable of resisting loads as specified in paragraph (B) (3) (b) (4)(a).

(b) Deadman concrete anchors may be used in place of listed anchors if they meet the requirements of paragraph (B) (3) (b) (4) (a).

(c) Concrete slabs may be used in place of ground anchors, provided the slab is constructed so that it provides holding strength equal to the requirements of paragraph (B) (3) (b) (4)(a).

b. Foundation Standards.

(1) Support System Spacing. Unless a professional engineer or architect designs the entire support system, the support system shall be designed in accordance with this standard.

(2) Footings. Footings shall be sized to support the loads shown in the manufacturer's instructions and as specified below. Where no manufacturer's instructions are available, the footings shall be adequate in size to withstand the uniform live and dead loads of the manufactured home and any concentrated loads.

(a) The supports shall begin not more than two feet from the exterior of each end wall. Supports shall be installed directly under the main frame (chassis) of the manufactured home.

(b) Table 2 in Appendix A shall be applicable unless the entire support system is designed and calculated by a registered professional engineer or architect.

(c) Footings shall be at least 144 square inches of solid concrete, block, or other materials approved for the intended use by the South Carolina Manufactured Housing Board. (Check Appendix B for minimum thickness.)

(d) Footings or pier foundations (unless approved by a registered professional engineer), when required, shall be placed level on firm undisturbed soil or on controlled fill which is free of grass and organic materials to minimum load-bearing capacity of 1000 pounds per square foot. Where unusual conditions exist, the spacing of piers and the load-bearing capacity of the soil shall be determined specifically for such conditions (see paragraph (B) (6) (b)).

(3) Piers. Piers or load-bearing supports or devices shall be designed and constructed to evenly distribute the loads. Load-bearing supports or devices shall be listed and labeled, shall be designed by a registered professional engineer or architect, shall be approved for the use intended, or piers shall be constructed as follows:

(a) Piers less than 36 inches in height shall be constructed of open or closed cell, eight inches by 16 inches, concrete blocks (with open cells vertically placed upon the footing). Single-stacked block piers shall be installed with the 16 inches perpendicular to the main (Ibeam) frame. The piers shall be covered with a two inches by eight inches by 16 inches wood or concrete cap (See Figure B-10, Appendix B).

(b) Subject to the limitations of paragraph (B) (4) (b), piers between 36 inches and 80 inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with a four inches by 16 inches by 16 inches solid concrete block, or equivalent (See Figure B-11, Appendix B).

(c) Subject to the limitations of paragraph (B) (4) (b), piers over 80 inches in height shall be constructed as per paragraph (B) (3) (b) (3) and they shall be laid in concrete mortar and steel reinforcing bars inserted in block cells with the block cells filled with concrete (See Figures B-12 (a) and B-12 (b) in Appendix B).

(d) Steel Piers. Steel piers, when used, shall be in compliance with paragraph (B) (3) (b) (5)(l), after fabrication to provide corrosion protection (See B-8 in Appendix B).

(e) Walls. Load bearing and nonload-bearing walls constructed on site shall be constructed of concrete, masonry, or any other material or system that is recognized by the authority having jurisdiction. Minimum thickness shall be that required to resist lateral pressure from adjacent earth and support design loads as determined by acceptable engineering practice.

(4) Anchors.

(a) Capacity of Anchors. Each approved ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to 3,150 pounds in the direction of the tie plus a 50 percent overload (4,725 pounds) without failure.

(b) Anchoring Equipment. Anchoring equipment, shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload (4,725 pounds) without failure of either the anchoring equipment or the attachment point on the manufactured home. When the stabilizing system is designed by a qualified registered professional engineer or architect, alternative working loads may be used provided the anchoring equipment is capable of withstanding a 50 percent overload. All anchoring equipment shall be listed or labeled as being capable of meeting all the requirements of this section.

(c) Anchor Installation Specifications. Each type anchor suitable for this purpose shall have specification data showing the soil classification(s) for which it qualifies.

(d) Anchors designed for connection of multiple ties shall be capable of resisting the combined working load and overload consistent with the intent expressed herein, and shall be installed to resist resultant forces.

(e) Selection of Anchors. Anchor selection shall be based on a determination of the soil class at the depth the anchor helical plate will be installed.

(f) Other Anchoring Devices. Other anchoring devices meeting the requirements of this section shall be permitted if acceptable to the authority having jurisdiction.

(g) Depth of Anchors. All anchors shall be installed to the full depth shown in the anchor manufacturer's installation instructions. The load-carrying portion of the ground anchors shall extend below the frost line.

(5) Ties. Strappings or other approved methods or material shall be used for ties. All ties shall be fastened to ground anchors and drawn tight with turnbuckles or other adjustable tensioning devices or devices supplied with the ground anchor.

(a) Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than two percent elongation and shall withstand a 50 percent overload (4,725 pounds total). Ties shall comply with the weathering requirements of paragraph (B) (3) (b) (v) l).

(b) Ties shall connect the ground anchor and the main structural steel frame (I-beam or other shape) which runs lengthwise under the manufactured home. Ties shall not connect to steel outrigger beams which fasten to and intersect the main structural frame unless specifically stated in the manufacturer's installation instructions.

(c) Connection of the cable frame tie to the manufactured home I-beam or equivalent main structural frame member shall be by a five-eighths inch drop-forged closed-eye bolt through a hole drilled in the center of the I-beam web or other approved methods. The web shall be reinforced if necessary to maintain the designed I-beam strength.

(d) Cable ends shall be secured with at least three U bolt-type cable clamps with the U portion of the clamp installed on the short (dead) end of the cable to assure strength equal to that required by paragraph (B) (3) (b) (v) a).

(e) Number of Ties. The minimum number of ties per side for various lengths of manufactured homes in hurricane zone shall be in accordance with Table 3 in Appendix A.

(f) Location of Ties. When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties shall be permitted to be connected to a single ground anchor, provided that either the anchor used is capable of carrying both loadings, or that the load capacity of the total number of anchors used is equal to 3150 pounds. Working load plus 50 percent overload (4725 pounds.) times the number of ties specified in Table 3 in Appendix A.

(g) Spacing of Vertical Ties. Vertical ties shall be as evenly spaced as practicable over rafters or over studs along the length of the manufactured home with not more than eight feet open-end spacing on each end.

(h) Special Ties. Clerestory roofs and add-on sections of expandable manufactured homes shall have provisions for vertical ties at the exposed ends.

(i) Alternate Method Using Strapping. If the alternate method incorporating straps specified in Table 3 in Appendix A is used, the baling straps shall be wrapped completely around the manufactured home passing under the main steel frame, with both ends of each strap fastened together under tension. The straps shall be in accordance with paragraph (B) (3) (b) (v). The method used to connect the ends of the strap shall not reduce the allowable working load and overload. S traps shall be installed in accordance with the requirements for ties in paragraph (B) (3) (b) (v) a) through l).

(j) Tensioning Device Design. Tensioning devices such as turnbuckles or yoke-type fasteners shall be ended with a clevis or forged or welded eyes.

(k) Permanency of Connections. Anchoring equipment shall be designed to prevent self-disconnection when ties are slack. Open hook ends shall not be used in any part of the anchoring system.

(l) Resistance to Weather Deterioration. All anchoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated, as determined by ASTM Standard Methods of Test for Weight of Coating on ZincCoated (Galvanized) Iron or Steel Articles (ASTM A90-B1).

4. Placement of Manufactured Homes.

a. Clearance Under Homes. A minimum clearance of 12 inches shall be maintained beneath the lowest member of the main frame (I-beam or channel beam) in the area of utility connections. No more than 25 percent of the underside of the main frame of the home shall be less than 12 inches above grade.

b. Plates and Shims. A wood plate not exceeding two inches in thickness and shims that transfer loads uniformly not exceeding one inch in thickness shall be permitted to be used to fill any gap between the top of the pier and the main frame. Two, two inches or four inches solid concrete blocks shall be permitted to be used

to fill the remainder of any gap. Shims shall be at least nominal four inches wide and six inches long and shall be fitted and driven tight between the wood plate or pier and main frame.

c. Elevated Manufactured Homes. When the manufactured home is installed on a basement or split entry type foundation over a habitable lower-level area, or when more than one-fourth of the area of a manufactured home is installed so that the bottom of the main frame members are more than three feet above ground level, the foundation system shall be designed by a registered professional engineer or architect and the installation shall be approved by the local authority having jurisdiction.

d. Removal of Manufactured Home Transportation Components at Time of Installation. No portion of a manufactured home shall be removed when located on its home site unless it is designated to be removable and removed in accordance with the manufacturer's instructions.

5. Ventilation of Manufactured Homes.

a. Access to and Ventilation of Underfloor Areas.

(1) Provisions shall be made to minimize condensation in underfloor areas through ventilation openings or other suitable means.

(2) If combustion air for heat-producing appliance(s) is taken from within the underfloor areas, ventilation shall be adequate to assure proper operation of the appliance(s). This requirement shall take precedence over the provisions of paragraph (B) (5) (a) (i).

(3) Ventilation openings shall be provided for low profiled manufactured homes that are installed by depressing the supporting foundation in accordance with paragraph (B) (5) (a) (iv).

(4) A minimum of four ventilation openings shall be provided from the underfloor space to the exterior. One shall be placed at or near each corner as high as practicable. Their total net area shall be calculated by: a = A/150 where: A = the area of the crawl space, square feet a = the total net free vent area.

(a) Openings shall provide cross ventilation on at least two opposite sides. The openings shall be covered with corrosion resistant wire mesh not less than one-eighth inch and not more than one-half inch in any dimension or with screened louvered openings to retard entry of dry vegetation, waste materials, or rodents.

(b) Intake air for ventilation purposes shall not be drawn from underfloor spaces of the home.

(c) Moisture producing devices, such as dryers, shall be vented to the atmosphere in such a manner to insure that moisture laden air is carried beyond the perimeter of the home.

(d) Curtain Walls. Curtain walls, if used, although not necessary for stabilizing the home, shall be installed in accordance with the manufacturer's installation instructions. It shall be secured, as necessary, to assure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Access opening(s) not less than 18 inches in any dimension and not less than three square feet in area shall be provided and shall be located so that any water supply and sewer drain connections located under the manufactured home are accessible for inspection. Such access panel(s) or door(s) shall not be fastened in a manner requiring the use of a special tool to remove or open same. On-site fabrication of curtain wall shall meet the objectives cited herein. Materials designed for curtain walls may be used, including, but not limited to vinyl, treated wood, corrosion resistant metal or masonry products. Curtain walls constructed or installed in accordance with this provision satisfy the requirements of the Act.

(5) Maintenance.

(a) Protection of Ties and Manufactured Home Roofing and Siding. Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or siding by the cable or strap.

(b) Maintenance of Anchoring Systems. The homeowner shall be advised that tie tension should be checked and adjusted when necessary to prevent damage to the manufactured home from settling or other unforeseen movements (such as frost heave).

C. Plumbing. Each manufactured home stand shall be provided with a water supply and sewer located and arranged to permit attachment to the manufactured home in a workmanlike manner.

D. Mechanical Equipment (Heating and Cooling)

1. Exterior Mechanical Equipment.

a. Mechanical equipment installed outside of and not attached to a manufactured home shall be mounted on a level concrete slab not less than three and one-half inches thick, a precast reinforced concrete slab, treated wood of equivalent strength, or be mounted in accordance with the equipment manufacturer's installation instructions.

b. Mechanical equipment installed outside shall be listed and labeled for outside installation and installed in accordance with the manufacturer's installation instructions.

c. Mechanical equipment shall not be installed in a manner that would obstruct any means of required egress. Mechanical equipment shall not be installed in window openings which are part of an existing system and shall not obstruct sidewalks or other means of egress from the manufactured home.

E. Manufactured Home Electrical Connections.

1. When a manufactured home consists of two or more sections, all utility connections from one section to another shall be installed in accordance with the manufacturer's installation requirements. In the absence of manufacturer's instructions utility connections shall be made in accordance with the National Electrical Code.

2. No rigid utility connections shall be made unless the home is installed on a foundation constructed in accordance with the South Carolina Residential Code.

3. All manufactured home utility services shall be connected to the supply sources only with approved materials.

4. When a manufactured home is equipped with a meter base from the manufacturer, a municipality or county cannot require that the home be hooked up in any other fashion.

F. Dealer Lot Installation.

1. All manufactured homes stored on dealership lots shall be installed to such a degree as to not allow damage to occur while the home is on display.

a. Piers. Pier requirements for dealer lot installations shall equal one-third the required piers for field installation in accordance with the manufacturer's installation instructions. In areas where special pier installations are required, the dealer shall incorporate these piers in the lot installation.

b. Used Manufactured Homes. Used manufactured homes offered for sale on dealership lots shall be installed to assure that load-bearing supports maintain the integrity of the home. Dealer lot owners will have the discretion as to what extent installation is necessary. However, in no situation shall any unit be installed on a dealer lot without pier support.

G. National Flood Insurance Program. In areas where a community meets the eligibility requirements for the National Flood Insurance Program, the local jurisdiction having authority shall have the authority to change, delete or modify these regulations in order to comply with the National Flood Insurance Program created by the National Flood Insurance Act of 1968, as amended. A copy of any different standard adopted under this paragraph shall be filed with the South Carolina Manufactured Housing Board.

Fiscal Impact Statement:

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

Statement of Rationale:

The Model Manufactured Home Installation Standards serve as the basis for developing manufacturers' installation instructions as required by 24 CFR Part 3285. The Model Manufactured Home Installation Standards include methods for performing specific operations or assembly of a manufactured home that will not take the home out of compliance with the Manufactured Home Construction and Safety Standards (24 CFR 3280). States that choose to operate an installation program for manufactured homes in lieu of the federal program must implement installation standards that provide protection to their residents that equals or exceeds the protection provided by these Model Installation Standards. The revisions to the regulations, as proposed hereinbelow, have been approved by the South Carolina Manufactured Housing Board and the US Department of Housing and Urban Development, which oversees the federal program.

Document No. 4853
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10, and 40-47-110

81-80. Requirements to Take Step 3 of the United States Medical Licensing Examination.

Synopsis:

The South Carolina Board of Medical Examiners proposes to amend R.81-80 to delete the requirement that the State Board of Medical Examiners of South Carolina administer Step 3 of the United States Medical Licensing Examination.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

ARTICLE 8
REQUIREMENTS FOR THE WRITTEN EXAMINATION (FLEX)

81-80. Requirements to Take Step 3 of the United States Medical Licensing Examination.

Applicants wishing to take Step 3 of the USMLE must satisfy the following requirements.

A. Educational Requirements:

(1) Graduation from medical school located in the United States, its territories or possessions, or Canada which is accredited by the Liaison Committee on Medical Education or other accrediting body approved by the Board, or

(2) Graduation from a school of osteopathic medicine located in the United States, its territories or possessions, or Canada accredited by the American Osteopathic Association or other accredited body approved by the Board, or

(3) Graduation from a medical school located outside the United States or Canada.

(a) Graduates of medical schools located outside of the United States of Canada must possess a Standard Certificate from the Education Commission for Foreign Medical Graduates (ECFMG), or

(b) Document successful completion of a Fifth Pathway program and be currently Board certified by a Specialty Board recognized by the American Board of Medical Specialties or the American Osteopathic Association.

B. Prior Examination Requirements:

(1) To be eligible to take Step 3 of the USMLE, an applicant must document successful completion of Step 1 and Step 2 of the USMLE, (A score of 75 or better shall be considered a passing score on each Step), or

(2) Document successful completion of the combination of the examinations of the National Board of Medical Examiners, Federation Licensing Examination (FLEX) and USMLE acceptable to the Composite Committee of the USMLE and approved by the Board.

C. Other Requirements:

(1) To be eligible to take Step 3 of the USMLE in South Carolina, an applicant must

(a) possess a current South Carolina license, or

(b) document acceptance into a post-graduate residency training program in South Carolina, or

(c) document satisfaction of all other requirements for permanent license but for successful completion of Step 3 of the USMLE.

(2) To be eligible to take Step 3 of the USMLE, an applicant must file a completed application for Step 3, with the required fee, prior to the application deadline established by the Board. The non-refundable fee for Step 3 of the USMLE shall not exceed $600.

(3) A score of 75 or better shall be considered a passing score on Step 3.

(4) In order to be eligible to apply for permanent licensure, an applicant must complete all steps of the USMLE within seven years.

Fiscal Impact Statement:

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

Statement of Rationale:

The South Carolina Board of Medical Examiners proposes to amend R.81-80 to delete the requirement that the State Board of Medical Examiners of South Carolina shall administer Step 3 of the United States Medical Licensing Examination.

Document No. 4863
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
CHAPTER 91
Statutory Authority: 1976 Code Sections 40-33-10(E), (I) and 40-33-70

91-32. Code of Ethics.

Synopsis:

The South Carolina Board of Nursing proposes to amend R.91-32 to correct a scrivener's error and adopt the American Nurses Association's Code of Ethics: 2015.

A Notice of Drafting was published in the *State Register* on October 26, 2018.

Instructions:

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

Text:

91-32. Code of Ethics.

The Board adopts the American Nurses Association's Code of Ethics: 2015.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulation is necessary to correct a scrivener's error in the current language and to identify the version of the Code of Ethics (the 2015 version) that is being adopted by the Board of Nursing. The reference to "American Nursing Association", as promulgated in 2014, was erroneous; there is no such association.

Document No. 4854
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF OCCUPATIONAL THERAPY

CHAPTER 94
Statutory Authority: 1976 Code Sections 40-1-70 and 40-36-60

94-07. Reactivation of Inactive or Lapsed Licenses.
94-10. Code of Ethics.

Synopsis:

The South Carolina Board of Occupational Therapy proposes to amend R.94-07 to provide more options to allow individuals to reinstate a license, and to amend R.94-10, its code of ethics, to achieve consistency with the national standards.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

94-07. Reactivation of Inactive or Lapsed Licenses.

The Board may issue a provisional license to a licensee for the sole purpose of seeking reactivation of the license, and a reinstatement fee must be paid to obtain this provisional license. The provisional licensee must be in good standing with NBCOT, and submit a plan of action to the Board on a Board approved form for obtaining the requirements in 94-04 and 94-05 to be completed within one calendar year. All components must be tracked on a Board approved form.

(1) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for three (3) years but less than five (5) years may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board on a form approved by the Board of two hundred fifty (250) hours of clinical practice under the on-site supervision of an occupational therapist licensed in this state, paying the reactivation fee, and completing sixteen (16) hours of in-person, Board-approved continuing education/competency courses in the area in which the occupational therapist or occupational therapy assistant intends to practice.

(2) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for five (5) years but less than ten (10) years may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board of no less than three hundred fifty (350) hours of clinical practice under the on-site supervision of an occupational therapist licensed in this State, paying the reactivation fee, and completing thirty-six (36) hours of in-person, Board-approved continuing education/competency courses in the area in which the occupational therapist or occupational therapy assistant intends to practice.

(3) An occupational therapist or occupational therapy assistant whose license has been inactive or lapsed for ten (10) years or more may reactivate the license by applying to the Board, demonstrating evidence satisfactory to the Board of no less than five hundred (500) hours of clinical practice under the on-site supervision of an occupational therapist licensed in this State, successfully passing an examination administered or approved by the Board, paying the reactivation fee, and completing fifty (50) hours of in-person, Board-approved continuing education/competency courses in the area in which the occupational therapist or occupational therapist assistant intends to practice.

(4) Provisional licenses are not renewable without appearing before the Board.

ARTICLE 6
CODE OF ETHICS

94-10. Code of Ethics.

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services and shall:

A. Provide appropriate evaluation and a plan of intervention for recipients of occupational therapy services specific to their needs.

B. Reevaluate and reassess recipients of service in a timely manner to determine whether goals are being achieved and whether intervention plans should be revised.

C. Use, to the extent possible, evaluation, planning, intervention techniques, assessments, and therapeutic equipment that are evidence-based, current, and within the recognized scope of occupational therapy practice.

D. Ensure that all duties delegated to other occupational therapy personnel are congruent with credentials, qualifications, experience, competency, and scope of practice with respect to service delivery, supervision, fieldwork education, and research.

E. Provide occupational therapy services, including education and training, that are within each practitioner's level of competence and scope of practice.

F. Take steps (e.g., continuing education, research, supervision, training) to ensure proficiency, use careful judgment, and weigh potential for harm when generally recognized standards do not exist in emerging technology or areas of practice.

G. Maintain competency by ongoing participation in education relevant to one's practice area.

H. Terminate occupational therapy services in collaboration with the service recipient or responsible party when the services are no longer beneficial.

I. Refer to other providers when indicated by the needs of the client.

J. Conduct and disseminate research in accordance with currently accepted ethical guidelines and standards for the protection of research participants, including determination of potential risks and benefits.

Principle 2. Occupational therapy personnel shall refrain from actions that cause harm and shall:

A. Avoid inflicting harm or injury to recipients of occupational therapy services, students, research participants, or employees.

B. Avoid abandoning the service recipient by facilitating appropriate transitions when unable to provide services for any reason.

C. Recognize and take appropriate action to remedy personal problems and limitations that might cause harm to recipients of service, colleagues, students, research participants, or others.

D. Avoid any undue influences that may impair practice and compromise the ability to safely and competently provide occupational therapy services, education, or research.

E. Address impaired practice and when necessary report to the appropriate authorities.

F. Avoid dual relationships, conflicts of interest, and situations in which a practitioner, educator, student, researcher, or employer is unable to maintain clear professional boundaries or objectivity.

G. Avoid engaging in sexual activity with a recipient of service, including the client's family or significant other, student, research participant, or employee, while a professional relationship exists.

H. Avoid compromising the rights or well-being of others based on arbitrary directives (e.g., unrealistic productivity expectations, falsification of documentation, inaccurate coding) by exercising professional judgment and critical analysis.

I. Avoid exploiting any relationship established as an occupational therapy clinician, educator, or researcher to further one's own physical, emotional, financial, political, or business interests at the expense of recipients of services, students, research participants, employees, or colleagues.

J. Avoid bartering for services when there is the potential for exploitation and conflict of interest.

Principle 3. Occupational therapy personnel shall respect the right of the individual to self-determination, privacy, confidentiality, and consent, and shall:

A. Respect and honor the expressed wishes of recipients of service.

B. Fully disclose the benefits, risks, and potential outcomes of any intervention; the personnel who will be providing the intervention; and any reasonable alternatives to the proposed intervention.

C. Obtain consent after disclosing appropriate information and answering any questions posed by the recipient of service or research participant to ensure voluntariness.

D. Establish a collaborative relationship with recipients of service and relevant stakeholders to promote shared decision making.

E. Respect the client's right to refuse occupational therapy services temporarily or permanently, even when that refusal has potential to result in poor outcomes.

F. Refrain from threatening, coercing, or deceiving clients to promote compliance with occupational therapy recommendations.

G. Respect a research participant's right to withdraw from a research study without penalty.

H. Maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communications, in compliance with applicable laws, including all aspects of privacy laws and exceptions thereto (e.g., Health Insurance Portability and Accountability Act [Pub. L. 104–191], Family Educational Rights and Privacy Act [Pub. L. 93–380]).

I. Display responsible conduct and discretion when engaging in social networking, including but not limited to refraining from posting protected health information.

J. Facilitate comprehension and address barriers to communication (e.g., aphasia; differences in language, literacy, culture) with the recipient of service (or responsible party), student, or research participant.

Principle 4. Occupational therapy personnel shall promote fairness and objectivity in the provision of occupational therapy services and shall:

A. Respond to requests for occupational therapy services (e.g., a referral) in a timely manner as determined by law, regulation, or policy.

B. Assist those in need of occupational therapy services in securing access through available means.

C. Address barriers in access to occupational therapy services by offering or referring clients to financial aid, charity care, or pro bono services within the parameters of organizational policies.

D. Advocate for changes to systems and policies that are discriminatory or unfairly limit or prevent access to occupational therapy services.

E. Maintain awareness of current laws and policies that apply to the profession of occupational therapy.

F. Inform employers, employees, colleagues, students, and researchers of applicable policies and laws.

G. Hold requisite credentials for the occupational therapy services they provide in academic, research, physical, or virtual work settings.

H. Provide appropriate supervision in accordance with relevant law.

I. Obtain all necessary approvals prior to initiating research activities.

J. Refrain from accepting gifts that would unduly influence the therapeutic relationship or have the potential to blur professional boundaries, and adhere to employer policies when offered gifts.

K. Report to appropriate authorities any acts in practice, education, and research that are unethical or illegal.

L. Collaborate with employers to formulate policies and procedures in compliance with legal, regulatory, and ethical standards and work to resolve any conflicts or inconsistencies.

M. Bill and collect fees legally and justly in a manner that is fair, reasonable, and commensurate with services delivered.

N. Ensure compliance with relevant laws and promote transparency when participating in a business arrangement as owner, stockholder, partner, or employee.

O. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.

P. Refrain from participating in any action resulting in unauthorized access to educational content or exams (including but not limited to sharing test questions, unauthorized use of or access to content or codes, or selling access or authorization codes).

Principle 5. Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession and shall:

A. Represent credentials, qualifications, education, experience, training, roles, duties, competence, contributions, and findings accurately in all forms of communication.

B. Refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, misleading, or unfair statements or claims.

C. Record and report in an accurate and timely manner and in accordance with applicable regulations all information related to professional or academic documentation and activities.

D. Identify and fully disclose to all appropriate persons errors or adverse events that compromise the safety of service recipients.

E. Ensure that all marketing and advertising are truthful, accurate, and carefully presented to avoid misleading recipients of service, research participants, or the public.

F. Describe the type and duration of occupational therapy services accurately in professional contracts, including the duties and responsibilities of all involved parties.

G. Be honest, fair, accurate, respectful, and timely in gathering and reporting fact-based information regarding employee job performance and student performance.

H. Give credit and recognition when using the ideas and work of others in written, oral, or electronic media (i.e., do not plagiarize).

I. Provide students with access to accurate information regarding educational requirements and academic policies and procedures relative to the occupational therapy program or educational institution.

J. Maintain privacy and truthfulness when using telecommunication in the delivery of occupational therapy services.

Principle 6. Occupational therapy personnel shall treat clients, colleagues, and other professionals with respect, fairness, discretion, and integrity, and shall:

A. Preserve, respect, and safeguard private information about employees, colleagues, and students unless otherwise mandated or permitted by relevant laws.

B. Address incompetent, disruptive, unethical, illegal, or impaired practice that jeopardizes the safety or well-being of others and team effectiveness.

C. Avoid conflicts of interest or conflicts of commitment in employment, volunteer roles, or research.

D. Avoid using one's position (employee or volunteer) or knowledge gained from that position in such a manner as to give rise to real or perceived conflict of interest.

E. Be diligent stewards of human, financial, and material resources of their employers, and refrain from exploiting these resources for personal gain.

F. Refrain from verbal, physical, emotional, or sexual harassment of peers or colleagues.

G. Refrain from communication that is derogatory, intimidating, or disrespectful and that unduly discourages others from participating in professional dialogue.

H. Promote collaborative actions and communication as a member of interprofessional teams to facilitate quality care and safety for clients.

I. Respect the practices, competencies, roles, and responsibilities of their own and other professions to promote a collaborative environment reflective of interprofessional teams.

J. Use conflict resolution and internal and alternative dispute resolution resources as needed to resolve organizational and interpersonal conflicts, as well as perceived institutional ethics violations.

K. Abide by policies, procedures, and protocols when serving or acting on behalf of a professional organization or employer to fully and accurately represent the organization's official and authorized positions.

L. Refrain from actions that reduce the public's trust in occupational therapy.

M. Self-identify when personal, cultural, or religious values preclude, or are anticipated to negatively affect, the professional relationship or provision of services, while adhering to organizational policies when requesting an exemption from service to an individual or group on the basis of conflict of conscience.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will provide more options to allow individuals to reinstate a license and achieve consistency in the Board's Code of Ethics with the national standard.

Document No. 4855
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN OPTOMETRY
CHAPTER 95
Statutory Authority: 1976 Code Sections 40-1-70 and 40-37-40(A)(7)

95-3. Licensure Requirements.
95-4. Continuing Education.
95-5. Licensure By Endorsement.

Synopsis:

The South Carolina Board of Examiners in Optometry proposes to amend: R.95-3 to eliminate the requirement that all portions of the national examination be passed; R.95-4 to reduce continuing education requirements, require the use of an electronic continuing education tracking service offered through the Agency, and establish the number of hours of online CE credits that may be obtained during the biennial licensure period; and R.95-5 to eliminate and modify certain requirements for obtaining licensure by endorsement.

A Notice of Drafting was published in the *State Register* on September 28, 2018.

Instructions:

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

Text:

95-3. Licensure Requirements.

A. All schools or colleges of optometry that hold accreditation from the Accreditation council for Optometric Education are approved by the Board as the basis for licensure. Schools or colleges accredited by other bodies will be considered on a case by case basis for approval.

B. As a prerequisite for initial licensure, an applicant must have a passing score on the South Carolina Optometric Jurisprudence Examination and a passing score on parts one (I), two (II), and three (III) of the National Board of Examiners in Optometry examination or the equivalent as determined by the Board.

95-4. Continuing Education.

A. Each licensee seeking renewal of a license must certify completion of forty (40) hours of continuing education (CE) for the biennial licensure period. Continuing education instruction must be on subjects relative to optometry.

B. Each licensee shall report CE hours to the electronic tracking system designated by the Department for CE compliance and monitoring.

C. CPR certification courses are approved for four hours; CPR re-certification courses are approved for two hours.

D. An unlimited number of CE hours can be from courses sponsored by optometric or medical organizations or optometry or medical schools as approved by the Board.

E. No more than ten (10) of the forty (40) CE hours required for a biennial licensure period can be from online course unless otherwise approved by the Board.

95-5. Licensure By Endorsement.

A. To demonstrate that he or she is currently licensed and practicing at the therapeutic level in another jurisdiction, an endorsement candidate should provide evidence of active practice for the twelve (12) month period immediately preceding application or in the alternative evidence of active practice during twenty four (24) of the last thirty six (36) months.

B. An endorsement candidate must obtain a passing score on the South Carolina Optometric Jurisprudence Examination and furnish proof of a passing score on parts one (I), two (II) and three (III) of the National Board of Examiners in Optometry examination or its equivalent as determined by the Board as prerequisites for licensure by endorsement.

Fiscal Impact Statement:

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

Statement of Rationale:

The rationale behind the proposed regulation changes is to reduce the regulatory burden on licensees of this state and those wishing to become licensed in this state while continuing to afford the public the protections afforded by regulating a profession or occupation.

Document No. 4822
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHARMACY
CHAPTER 99
Statutory Authority: 1976 Code Sections 40-1-70, 40-43-60(C) and (D)(8), 40-43-86(B), and 40-43-150

99-45. Administrative Citations and Penalties.

Synopsis:

The South Carolina Board of Pharmacy proposes to amend existing regulations to conform to Act No. 29 of 2015 and Act No. 91 of 2017. The Board further proposes to decrease the fine for a pharmacist-in-charge's violation of Act No. 91 of 2017.

A Notice of Drafting was published in the *State Register* on July 27, 2018.

Instructions:

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

Text:

99-45. Administrative Citations and Penalties.

A. The board may issue administrative citations and cease and desist orders in person, or by certified mail, and may assess administrative penalties against an entity or individual for the violations listed below. If the licensee is working at his or her primary place of employment listed with the Board, the licensee must have his or her license or registration displayed. If the licensee is not working at his or her primary place of employment, the licensee must have a wallet card available for inspection. The citation must be signed by the Chief Drug Inspector.

1. Failure to Display Permit (Pharmacist-in-Charge)	$50
2. Failure to Display License or Possess Wallet Card	$100
3. Failure to Display Intern Certificate or Possess Wallet Card (PIC and Intern)	$25
4. Failure to Display Pharmacy Technician Registration or Possess Wallet Card	$25
5. Pharmacy Technician Working Without Registration (Permit Holder)	$500

6. Pharmacy Technician Working Without Registration (PIC)	$500
7. Pharmacy Technician Working With Lapsed Registration (Permit Holder)	$500
8. Pharmacy Technician Working With Lapsed Registration (PIC)	$500
9. Pharmacy Technician Working With Lapsed Registration (Technician)	$50
10. Pharmacy Operating with greater than 4:1 Technician to Pharmacist Ratio (PIC)	$250
11. Pharmacy Operating with greater than 4:1 Technician to Pharmacist Ratio (Permit Holder)	$500
12. Failure to Notify Board of Facility Relocation	$100
13. Failure to Notify Board of PIC Change	$100
14. Immunization Protocol-Technical Violation	$500
15. Failure to Notify Board of Change in Ownership	$100

B. Separate citations and administrative penalties may be assessed for each violation.

C. Administrative citations authorized under this section are separate from, and in addition to, all other remedies, either civil or criminal.

D. A licensee assessed an administrative citation may appeal the citation to the board within thirty (30) calendar days of the receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the board or its designee for a final determination on the matter. If no appeal is filed, the citation is deemed a final administrative order, and penalties are due within ninety calendar days of receipt of the citation, or other written demand.

E. Extension to pay citations must be submitted in writing, and will be at the discretion of the Chairman.

F. Failure to pay a citation is considered a violation of this regulation, and may subject the entity to discipline under S.C. Code Ann. § 40-43-140(A)(1)(a).

G. Should a licensee or permittee receive one or more administrative violations of the same type in a five year period, any subsequent violation(s) must be referred to the board for disciplinary action.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulations replace the reference to a flu protocol violation with an immunization protocol violation to reflect that pharmacists may administer vaccinations other than a flu shot pursuant to the joint written protocol. The proposed regulation will update the existing language to reflect the current ratio of pharmacy technicians to pharmacists as modified in 2017. It further seeks to decrease the fine for a pharmacist-in-charge's violation of the ratio from $500 to $250.

Document No. 4856

DEPARTMENT OF LABOR, LICENSING AND REGULATION

BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 101

Statutory Authority: 1976 Code Sections 40-1-70 and 40-45-60

101-01. Definitions.
101-04. General Licensing Provisions for Physical Therapists.
101-05. General Licensing Provisions for Physical Therapist Assistants.
101-07. Continuing Education.
101-16. Physical Therapy Compact Rules and Amendments.

Synopsis:

The South Carolina Board of Physical Therapy Examiners proposes to amend its regulations to conform to requirements established by 2018 Act No. 226, the Physical Therapy Licensure Compact. The Board proposes to amend R.101-04 and 101-05 to add the requirement for criminal background checks, amend R.101-07 to expand continuing education opportunities to demonstrate continuing professional development and competency outside of the traditional classroom setting, and R.101-16 to adopt the PT Compact Commission Rules.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

ARTICLE 1
DEFINITIONS

101-01. Definitions.

Definitions found in Section 40-45-20 apply to this chapter.

(1) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry level educational requirements for PTs and PTAs. Course content must relate to patient care in physical therapy whether the subject is research, treatment, documentation, education, or management.

(2) "CEU" or "continuing education unit" means ten (10) contact hours of participation in Certified Activities and/or participation in Approved Activities as set forth herein.

(3) "Contact hour" means a minimum of fifty (50) minutes of instruction or participation in Certified Activities or Approved Activities.

(4) "Continuing competency" is the ongoing ability of a PT or PTA to learn, integrate, and apply the knowledge, skill and judgment to practice as a PT and/or PTA according to generally accepted standards and professional ethical standards as defined by the Board.

(5) "Certified Activities" are Board-approved activities for which a licensee may receive CEU credit. Certified Activities are measured in contact hours, with one (1) contact hour equaling one-tenth (.1) of an hour of CEU credit. A certified activity must be subject to an evaluative process to determine if the activity meets a minimal threshold of required criteria and how well that activity meets that criteria.

(6) "Approved Activities" are Board-approved activities for which a licensee may received CEU credit, but which are not subject to a formal evaluative process. Approved Activities are assigned a set CEU value measured in contact hours based on the criteria established herein, with one (1) contact hour equaling one-tenth (.1) of an hours of CEU credit.

ARTICLE 3
LICENSING PROVISIONS

101-04. General Licensing Provisions for Physical Therapists.

An applicant for licensure as a physical therapist must:

(1) be a graduate of a physical therapy educational program approved by the Board; or, if foreign educated, must have a credentials evaluation by a Board approved credentialing evaluation agency that determines the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited entry level program as determined by the Board. To determine substantial equivalency, the approved credentialing evaluation agency shall use the appropriate Course Work Tool ("CWT") adopted by the Federation of State Boards of Physical Therapy (FSBPT). The appropriate CWT means the CWT in place at the time the foreign educated physical therapist graduated from their physical therapy program;

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board; and

(4) pass an examination approved by the Board; and

(5) submit proof of not less than one thousand (1000) clinical practice hours under the on-site supervision of a licensed physical therapist on a form approved by the Board if the applicant is not a graduate of an approved school.

(6) undergo a state criminal record check, supported by fingerprints, by the State Law Enforcement Division (SLED) and a national criminal record check, supported by fingerprints, by the Federal Bureau of Investigation (FBI).

101-05. General Licensing Provisions for Physical Therapist Assistants.

An applicant for initial licensure as a physical therapist assistant must:

(1) be a graduate of a physical therapist assistant program approved by the Board; and

(2) submit an application on a form approved by the Board, along with the required fee; and

(3) pass an examination approved by the Board; and

(4) speak the English language as a native language or demonstrate an effective proficiency of the English language in the manner prescribed by and to the satisfaction of the board.

(5) undergo a state criminal record check, supported by fingerprints, by the State Law Enforcement Division (SLED); and a national criminal record check, supported by fingerprints, by the Federal Bureau of Investigation (FBI).

101-07. Continuing Education and Competency.

An individual licensed as a PT or PTA is responsible for optimum service to the public and is accountable for maintaining evidence of high levels of skill and knowledge. Evaluation and assessment of current competence is critical for PTs and PTAs. The results of an evaluation or assessment should be used by the licensee to then select appropriate developmental activities.

(1) A licensed PT or PTA shall earn three (3.0) CEUs per biennium period and at least fifteen (15) contact hours of the three (3.0) CEUs total must be obtained through the completion of Certified Activities. PTs and PTAs licensed in South Carolina are not subject to this requirement for the first biennium renewal period in which they are initially licensed.

(2) A PT or PTA must complete three (3) contact hours of study in ethics, professionalism, and/or South Carolina jurisprudence per biennium as part of his/her CEU requirements. This requirement shall be obtained by participation in a Certified Activity and will count towards the licensee's required Certified Activity hours.

(3) At least fifteen (15) of the required thirty (30) contact hours shall be from Certified Activities. Certified Activities include:

(a) attendance at conferences and completion of continuing competency activities that meet the Standards of Continuing Competence (SCC) as set forth by the FSBPT. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(b) attendance at conferences and completion of continuing competency activities provided by the American Physical Therapy Association (APTA), South Carolina Chapter of the American Physical Therapy Association (SCAPTA), other chapters and sections of the APTA, as well as other state boards of physical therapy. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(c) completion of educational programs where CE credit is given and approved by accredited universities. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(d) attendance at educational programs where CE credit is given and approved by SCAPTA. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(e) completion of an APTA credentialed fellowship or residency. Licensees who are enrolled in a fellowship or residency will be considered as meeting the educational and competency requirements for the entire licensure biennium in which the certification or renewal is received. A letter from the director of the residency or fellowship program is required as evidence of compliance.

(f) certification or recertification of clinical specialization by the American Board of Physical Therapy Specialties (ABPTS) or PTA advanced proficiency certification. A licensee who completes this certification or recertification will be considered as having met the CEU requirement for the entire licensure biennium in which the certification or recertification is awarded.

(g) completion of academic course work germane to the practice of physical therapy and conducted or sponsored by accredited institutions of higher education. Courses must be on the graduate level for PTs. Undergraduate courses are acceptable for PTAs. Ten (10) contact hours may be awarded for each credit hour awarded by the accredited institution of higher education. A transcript from the institution which indicates a passing grade in the course is required as evidence of compliance.

(h) completion of any appropriate physical therapy continued competency tools, including examinations and/or self-assessments, developed by the FSBPT and/or APTA. Credit for CEUs is applied as awarded. If no contact hours are awarded, a licensee may receive five (5) contact hours. A certification of completion is required as evidence of compliance.

(i) completion of courses relating to physical therapy approved by the American Medical Association (AMA). A certification of completion is required as evidence of compliance.

(4) A licensee may obtain up to fifteen (15) hours of CEU credit through Approved Activities per biennium. Approved Activities include:

(a) completion of continuing education courses and attendance at conferences that do not meet the requirements for Certified Activities. A licensee who completes such a course or attends such a conference will receive credit for: ten (10) contact hours for each course/conference that totals thirty-two (32) hours or longer; five (5) contact hours for each course/conference that totals a minimum of eight (8) but fewer than thirty-two (32) hours; and two (2) contact hours for each course/conference that totals fewer than eight (8) hours. A certification of completion is required as evidence of compliance.

(b) clinical instruction. Clinical instructors shall receive one (1) contact hour for every one hundred and sixty (160) hours of clinical internship, limited to a maximum of six (6) contact hours per instructor per biennium. Students must be enrolled in CAPTE accredited or eligible DPT or PTA programs. Clinical instructors must be credentialed by APTA to receive clinical continuing education credits. Verification of the clinical supervision agreement with the student's educational program and a log reporting supervision hours is required as evidence of compliance. A certificate of completion from the educational program may also be used as evidence of compliance.

(c) attendance at in-service education programs pertaining to safety, governmental regulation, clinical concepts, or CPR. One (1) contact hour per in-service program may be awarded for a maximum of three (3) contact hours per biennium. Learning objectives, program schedule, and verification of attendance from an employer are required as evidence of compliance.

(d) teaching a course on a subject germane to the practice of physical therapy at an accredited institution of higher education when that teaching is an adjunct responsibility and not the license's primary employment. CEU credit is based on didactic classroom/lab teaching time and may not exceed ten (10) contact hours per biennium. A letter from the institution documenting the licensee's completion of this activity is required as evidence of compliance.

(e) performing volunteer work. A licensee who renders physical therapy services voluntarily and without compensation or the expectation or promise of compensation and seeks no reimbursement from charitable and governmental sources may receive one (1) contact hour of continuing education for each hour of volunteer medical services rendered, up to a maximum of seven and one-half (7.5) contact hours per biennium. A letter from the organization/individual for whom the licensee is providing volunteer services documenting the licensee's completion of this activity is required as evidence of compliance.

(f) presentations made before physical therapists or other health care professionals and directly related to the profession of physical therapy. Three (3) contact hours per presentation/topic may be awarded. Documentation of the learning objectives presented and a presentation brochure or flyer are required as evidence of compliance. A licensee may obtain no more than six (6) hours of credit for this activity per biennium.

(g) self-study germane to the practice of physical therapy, which may be directed by a correspondence course, video, internet or satellite program by a provider not outlined in the Certified Activities listed above. One (1) contact hour per study topic may be awarded. Documentation of the study objectives, activities, and

time spent to meet objectives, as well as reflection on learning achieved, is required as evidence of compliance. A licensee may obtain no more than two (2) hours of credit for this activity per biennium.

(h) conducting peer-reviewed research germane to the practice of physical therapy performed by the licensee. Credit for ten (10) contact hours may be awarded for principal and co-principal investigators in research projects. The title of the research project and copy of the abstract, as well as the funding agency and grant period, if applicable, are required as evidence of compliance.

(i) writing a professional publication. Credit for eight (8) contact hours may be awarded for each peer-reviewed publication written by a licensee. Credit for four (4) contact hours may be awarded for each non-peer-reviewed publication. A copy of the article, book chapter, or other work product is required as evidence of compliance. A licensee may obtain no more than eight (8) hours of credit for this activity per biennium.

(j) participation in a formal mentorship (as mentor or protégé). Credit for five (5) contact hours may be awarded per biennium for a licensee's participation in a formal mentorship program. Documentation of the objectives and action plans, as well as documentation of the activities completed are required as evidence of compliance.

(5) Notwithstanding any provision in this Chapter to the contrary, no contact hours or CEUs may be awarded for a licensee's:

(a) attendance at staff meetings, or involvement in presentations or publications directed at lay groups;

(b) participation in non-educational entertainment or recreational meetings or activities;

(c) participation or attendance at case conferences, grand rounds, informal presentations, etc.;

(d) participation in self-directed studies other than those specifically allowed for herein;

(e) routine teaching, research, or orientation duties as part of a job requirement;

(f) CEUs or contact hours carried over from one licensure period to another; or

(g) attendance at exhibits or poster presentations.

(6) Reporting Requirements:

(a) reports shall be submitted in a manner prescribed by the Board. By signing the biennial report of continuing education, the licensee signifies that the report is true and accurate

(b) Licensees shall retain original documentation of all Certified Activities and Approved Activities completed as required herein for no less than three (3) years from the beginning date of the licensure period.

(7) Audit of continuing competency:

(a) each licensee shall be responsible for maintaining sufficient records in a format determined by the Board; and

(b) these records shall be subject to a random audit by the Board to assure compliance with this section; and

(c) the Board may audit a percentage of the continuing education reports.

(8) In the event of denial, in whole or part, of credit for purposes of meeting the requirements of this Section, the licensee shall have the right to request a hearing in accordance with the Administrative Procedures Act.

ARTICLE 8
PHYSICAL THERAPY COMPACT RULES AND AMENDMENTS

101-16. Physical Therapy Compact Commission Rules and Amendments.

All rules and amendments adopted by the Physical Therapy Compact Commission are incorporated by reference herein and shall be binding upon the Board and its licensees as of the date specified in each rule or amendment. These rules and amendments are available on the Physical Therapy Compact Commission's website, www.ptcompact.org.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will conform to requirements established by 2018 Act No. 226, the Physical Therapy Licensure Compact. The Board proposes to amend R.101-04 and 101-05 to add the requirement for criminal

background checks, amend R.101-07 to expand continuing education opportunities to demonstrate continuing professional development and competency outside of the traditional classroom setting, and R.101-16 to adopt the PT Compact Commission Rules.

Document No. 4857
DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE APPRAISERS BOARD
CHAPTER 137
Statutory Authority: 1976 Code Sections 40-60-10(I)(3) and 40-60-360

137-100.02. Qualifications.
137-200.02. Residential Mass Appraisals.
137-500.01. Continuing Education.
137-800.05. Expired Permit, License or Certificate.

Synopsis:

The South Carolina Real Estate Appraisers Board proposes to amend Chapter 137 to amend the education and experience requirements for licensure in R.137-100.02 and make minor corrections in R.137-200.02, R.137-500.01 and R.137-800.05.

A Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

137-100.02. Qualifications.

(A) In order to qualify as a state apprentice, licensed or certified appraiser, an applicant must meet the requirements set forth below, as well as any requirements established by the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB) of the Appraisal Foundation, as subsequently endorsed by the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(B) In order to qualify as an apprentice appraiser, an applicant:

(1) must have received 75 hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, and fifteen (15) hours in National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB;

(2) must attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(C) In order to qualify to become a state licensed real estate appraiser, an applicant:

(1) must have received one hundred fifty (150) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, and fifteen (15) hours in Residential Report Writing and Case Studies.

(2) Applicants for the Licensed appraiser classification must hold a high school diploma or certificate of equivalency.

(3) must have earned a minimum of two thousand hours of appraisal experience in appraising either residential or nonresidential properties. However, the maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand (1,000) hours. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value; and

(4) must have at least twelve (12) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become licensed within two years after passing the examination must retake the examination.

(D) In order to qualify to become a state certified residential real estate appraiser, an applicant:

(1) must have received two hundred (200) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, fifteen (15) hours in Residential Report Writing and Case Studies, fifteen (15) hours in Statistics, Modeling, and Finance, fifteen (15) hours in Advanced Residential Applications and Case Studies, and twenty (20) hours in appraisal subject matter electives;

(2) must have maintained a Licensed Appraiser credential for a minimum of five (5) years and have no record of any disciplinary action affecting the Licensed Appraiser's legal eligibility to engage in appraisal practice within the previous five (5) years, or must hold a Bachelor's degree or higher, or an Associate's degree in a field of study related to Business Administration, Accounting, Finance, Economics or Real Estate from an accredited college, community college, or university. In lieu of the degree requirement, an applicant for the certified residential appraiser credential shall successfully complete thirty (30) semester hours of college-level education from an accredited college, junior college, community college or university in the following topic areas:

English Composition (3 hours)
Microeconomics (3 hours)
Macroeconomics (3 hours)
Finance (3 hours)
Algebra, Geometry or Higher Math (3 hours)
Statistics (3 hours)
Computer Science (3 hours)
Business or Real Estate Law (3 hours)
Two elective courses in any of the above topics, or in Accounting, Geography, Agricultural Economics, Business Management or Real Estate (3 hours each)

The college or university must be a degree-granting institution accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

(3) must have earned a minimum of two thousand five hundred hours of appraisal experience in appraising either residential or nonresidential properties. However, the maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand two hundred fifty (1,250) hours. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least twelve (12) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for residential certification.

(E) In order to qualify to become a state certified general real estate appraiser, an applicant:

(1) must have received three hundred (300) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, thirty (30) hours in General Appraiser Market Analysis and Highest and Best Use, fifteen (15) hours in Statistics, Modeling, and Finance, thirty (30) hours in General Appraiser Sales Comparison Approach, at least thirty (30) hours in General Appraiser Site Valuation and Cost Approach, sixty (60) hours in General Appraiser Income Approach, thirty (30) hours in General Appraiser Report Writing and Case Studies, and thirty (30) hours in appraisal subject matter electives;

(2) must hold a Bachelors degree or higher from an accredited college or university;

(3) must have earned a minimum of three thousand hours of appraisal experience, fifty (50%) percent of which must come from appraising nonresidential properties. The maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand five hundred (1,500) hours. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least eighteen (18) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for general certification.

(F) Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser's knowledge is increased.

(G) The Board may waive the examination requirements for those applicants who are currently licensed or certified in another state upon proof that the applicant has successfully passed an Appraisal Qualifications Board approved exam which served as a requirement for licensure or certification in the state where he is currently licensed or certified.

137-200.02. Residential Mass Appraisals.

The following categories pertain to various forms of appraiser involvement and the hourly values which may be awarded by the Board when evaluating residential mass appraisal experience:

(A) Sole Appraiser

	Type of Appraisal			Hours Assigned
	1.	Single-Family	New	2
		(one-unit dwelling)	Update	1
	2.	Multi-Family	New	2
		(two-four units)	Update	1
	3.	Residential Lots	New	2
		(4 lots or less)	Update	1
	4.	Rural Residential Land	New	2
		(50 acres or less)	Update	1

(B) Co-Appraiser

	Type of Appraisal			Hours Assigned
	1.	Single-Family	New	1

		(one unit dwelling)	Update	.50
	2.	Multi-Family	New	1
		(two-four units)	Update	.50
	3.	Residential Lots	New	1
		(4 lots or less)	Update	.50
	4.	Rural Residential Land	New	1
		(50 acres or less)	Update	.50

137-500.01. Continuing Education.

(A) All appraisers, including apprentice appraisers, prior to their first and all subsequent renewals of their authorization to engage in real estate appraisal activity, must complete the continuing education requirement of at least twenty-eight (28) class hours of approved instruction biennially.

(B) Continuing education is to be reported on a form approved by the Board and must have all supporting documentation attached. To ensure that it is recorded prior to the renewal deadline of June 30 and does not delay an appraiser's renewal, it should be received by the Board no later than June 1. The Board cannot guarantee that a renewal will be processed prior to the expiration date of June 30 if forms are received after June 1.

(C) Approved qualifying courses may be used to meet the continuing education requirement provided that the following conditions are met:

(1) Qualifying courses must be on the Board's approved list.

(2) The level of the course must be above the appraiser's current status [e.g. a licensed appraiser may receive continuing education credit for taking a Certified Residential or Certified General Level Course].

(3) Credit will not be given for the same category course taken within a two (2) year period.

(4) The current 7-hour National Uniform Standards of Professional Appraiser Practice Update Course must be taken by all appraisers prior to each renewal.

(D) Appraisers may request that they receive credit for continuing education for a course taken that has not been approved by the Board. Appraisers may use qualifying courses for continuing education credit provided that the content is substantially different from their previously completed qualifying courses. Credit will be granted only if the appraiser provides satisfactory proof of course completion and the Board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length, instructor qualification and student attendance. Requests for continuing education credit for non-approved courses must be made on a form approved by the Board and must be submitted along with a nonrefundable fee.

(E) Appraisers who received their authority to engage in real estate appraisal activity in South Carolina through either a reciprocal agreement with their state of residence or as a non-resident South Carolina appraiser may meet the continuing education requirements by providing evidence that they have met the continuing education requirements of their state of residence. Such real estate appraisal requirements must meet South Carolina's minimum hour requirements and be approved by the regulatory agency in their state.

(F) Submission of false or misleading information is grounds for immediate revocation of the appraiser's authority to practice and other disciplinary actions.

(G) Approved instructors may receive up to one-half of their continuing education credit for teaching continuing education courses, subject to Board approval. Credit will not be given for the same continuing education course more than once during a continuing education cycle.

137-800.05. Expired Permit, License, Certificate, or Registration.

(A) Permits, licenses and certificates expired for more than twelve (12) months will be cancelled. Such cancelled permits, licenses and certificates may be considered for reinstatement upon proper application, payment of the original license or certificate fee, and proof of having obtained continuing education equal to the total number of hours that would have been required had the permit, license or certificate been continuously renewed including the most recent 7-hour National Uniform Standards of Professional Appraisal Practice Update Course. Such applications will be reviewed by the Board to determine whether an examination and/or additional real estate appraisal education will be required.

(B) Registrations of an appraisal management company expired for more than twelve (12) months will be cancelled. Such cancelled registration may be considered for reinstatement upon proper application and payment of the original registration fee and any late fee. Such applications will be reviewed by the Board to determine reinstatement and any further required conditions of reinstatement.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will make necessary updates to comply with Federal requirements, delete sections already appearing in statute, add information pertinent to appraisal management companies, remove fees, clarify existing language, and make editorial changes.

Document No. 4864
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF SOCIAL WORK EXAMINERS
CHAPTER 110
Statutory Authority: 1976 Code Sections 40-1-70 and 40-63-10

110-2. Continuing Education Advisory Committee.

Synopsis:

The Board of Social Work Examiners proposes to repeal R.110-2.

The Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

110-2. [Repealed].

Fiscal Impact Statement:

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

Statement of Rationale:

The Board is repealing a regulation that established parameters for an advisory committee to develop continuing education standards for the Board. The task is complete and therefore, the committee is no longer needed.

Document No. 4858
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 115
Statutory Authority: 1976 Code Sections 40-1-70 and 40-67-70

115-1. General Licensing Provisions.
115-2. Speech-Language Pathology Assistants.
115-6. Continuing Education.

Synopsis:

The South Carolina Board of Examiners in Speech-Language Pathology and Audiology proposes to: amend R.115-1 to add "a diploma"; amend R.115-2(C)(3) to add "neurogenics"; modify R.115-2(D)(5) to cite to a regulation; clarify R.115-2(G) that direct supervision means on-site and in person; and add in R.115-6(A)(2) the National Black Association for Speech-Language and Hearing (NBASLH).

The Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

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

Text:

ARTICLE 1
LICENSING PROVISIONS

115-1. General Licensing Provisions.

Each applicant for a license must submit a notarized application form to the board office. The appropriate fee must be received before the application may be evaluated.

(A) An applicant for active licensure in Speech-Language Pathology or Audiology must submit or cause to be submitted documented evidence of the following:

(1) a diploma showing a post-graduate degree in speech-language pathology or audiology from a school or program with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA) or other board approved authority;

(2) a passing score on a national examination as approved by the board; and

(3)(a) completed supervised professional employment (SPE); or

(b) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board, in Speech-Language Pathology or Audiology in effect at the time of application; or

(c) have a current ASHA Certificate of Clinical Competence or its equivalent as approved by the board.

(B) An applicant for active licensure in Audiology with a Masters in Audiology before January 1, 2007, must submit or cause to be submitted documented evidence of the following:

(1) at least a masters degree in audiology or its equivalent from a school or program determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA);

(2) successful completion of a supervised clinical practicum approved by the board; and

(3) successful completion of postgraduate professional experience approved by the board; or

(4) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(C) An applicant for active licensure in Audiology with a Doctorate in Audiology after January 1, 2007, must submit or cause to be submitted documented evidence of the following:

(1) a doctoral degree in audiology from a school or educational institution with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA); or

(2) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(D) An applicant for a speech-language pathology or audiology intern license must submit or cause to be submitted documented evidence of having satisfied the requirement of (A)(1).

(1) A speech-language pathology or audiology intern license must be issued to an applicant who has satisfied the requirement of subsection (A)(1) but who has not passed the examination required by subsection (A)(2) or who lacks the supervised professional employment as required by subsection (A)(3), or both.

(2) A person who has been issued a license as an intern who has not met the requirement of subsection (A)(2) must pass an examination approved by the board within twelve months of the issuance of the intern license.

115-2. Speech-Language Pathology Assistants.

(A) To be licensed as a Speech-Language Pathology Assistant an applicant must:

(1) submit an application on forms approved by the board;

(2) submit an application fee as prescribed by the board;

(3) present evidence of a bachelor's degree in Speech-Language Pathology from a regionally accredited institution.

(B) A bachelor's degree in Speech-Language Pathology from a regionally accredited institution must include as a minimum the following core curriculum of 36 semester hours and not less than 100 clock hours of direct client contact/clinical practicum, excluding observation hours.

(C) Specialized Preparation: 36 Semester Hours

	(1)	Directed Teaching in Speech-Language Therapy	(6 Semester Hours)
		100 clock hours of supervised clinical practicum in not less than two different sites with direct client contact/clinical practicum, excluding observation hours.	
	(2)	Basic Area	
		Anatomy, physiology, mechanics, and function of the ear and vocal mechanism.	
		Phonetics	
		Semantics	
		Speech and Voice Science	
		Psychology of Speech	
		Experimental Phonetics	
	(3)	Speech-Language Pathology Courses	(12 Semester Hours)
		Stuttering	
		Articulation	
		Voice Disorders	
		Cleft Palate	
		Aphasia	
		Cerebral Palsy	
		Speech-Language Disorders	
		Neurogenics	
	(4)	Audiology	(3 Semester Hours)
		Testing of Hearing	
		Introduction of Audiology	
		Auditory Training	
		Speechreading	
		Speech for the Deaf or Hard of Hearing	
	(5)	Psychology	(6 Semester Hours)
		Human Growth and Development	
		Psychology of Adjustment or	
		Abnormal Psychology	
	(6)	Basic Course in Public Speaking	(3 Semester Hours)

(D) General Guidelines

(1) No speech-language pathology assistant may begin working in direct contact with clients/patients without the board's written approval of the supervisory agreement and on the job training plan.

(2) Only a speech-language pathologist with an active license in good standing and a minimum of three years of work experience may supervise speech-language pathology assistants.

(3) A speech-language pathologist shall supervise no more than two full-time or three part-time speech-language pathology assistants, not to exceed more than three speech-language pathology assistants whether part-time or full-time. Full time is defined as a minimum of 30 work hours per week.

(4) If, for any reason, there is a change in supervising speech-language pathologist, it is the responsibility of the supervising speech-language pathologist to notify the board in writing within seven (7) working days that the supervisory agreement has been discontinued.

(5) The assistant's license shall become void when the authorized supervisor is no longer available for supervision. The license will be reactivated upon receipt and approval by the board of a new supervisory agreement and the change in supervising speech-language pathologist fee specified in Reg. 10-41(E).

(6) At the time of license renewal, supervising speech-language pathologists are to list the names of all those speech-language pathology assistants they are supervising.

(7) A speech-language pathology assistant may work part-time for more than one supervising speech-language pathologist provided that the board has approved supervisory agreements for each supervising speech-language pathologist.

(8) A licensed speech-language pathologist who supervises any speech-language pathology assistant must provide each speech-language pathology assistant with on the job training and must maintain responsibility for all services performed or omitted by such speech-language pathology assistant(s).

(E) On-the-Job Training (OJT)

At a minimum, on-the-job training (OJT) must include step-by-step instruction of each and every service or task the speech-language pathology assistant is to perform and continuous visual observation by the supervising speech-language pathologist of the speech-language pathology assistant's performance of each service or task until the supervising speech-language pathologist establishes the speech-language pathology assistant's competence. The supervising speech-language pathologist must maintain a written record of each service or task indicating the activity, date, time, and location of the training demonstration and observations. This record must be signed by both the supervising speech-language pathologist and the speech-language pathology assistant and a copy must be provided to the speech-language pathology assistant. The supervising speech-language pathologist and the speech-language pathology assistant must maintain such records for a period of four (4) years and such records must be made available to the director or the designee upon request.

(F) Supervision - General.

Supervising speech-language pathologists are responsible for all the clinical services provided or omitted by the speech-language pathology assistant(s). When speech-language pathology assistants provide direct services, the supervising speech-language pathologist is responsible for informing, in writing, all the clients (or their legal guardians), referring agencies, and third-party payers. Further, it is the supervisor's responsibility to ensure that the assistant is clearly identified at all times as an assistant by means of a name tag or similar identification. At no time may a speech-language pathology assistant perform tasks when the supervising speech-language pathologist cannot be reached by personal contact, phone, e-mail, pager, or other immediate or electronic means. The supervisor must make provisions, in writing, for emergency situations including designation of another licensed speech-language pathologist who has agreed to be available on an as needed basis to provide supervision and consultation to the assistant when the supervisor is not available. If for any reason (i.e., maternity leave, illness, change of job) a supervisor is not able to provide the level of supervision stipulated, the assistant may not perform client contact tasks.

(G) Direct Supervision.

Following initial OJT, direct supervision of each speech-language pathology assistant must consist of a minimum of 15% (e.g., 6 hours per 40 hour work week) or one of every seven visits per patient of direct, visual supervision of client contact to include a sampling of each assigned service or task. This direct supervision must be on-site, in person, and documented in writing. This documentation must be maintained by the supervising speech-language pathologist for a period of four years and must be made available to the director or the designee upon request.

(H) Indirect Supervision.

In addition to direct supervision, indirect supervision is required a minimum of 5% (e.g., 2 hours per 40 hour work week) and must include review of written records and may include demonstrations, review and evaluation of audio- or video- taped sessions, and/or supervisory conferences.

(I) Quarterly Reviews.

In addition to direct and indirect supervision, the supervising speech-language pathologist must conduct quarterly performance reviews of each speech-language pathology assistant's performance of each assigned service or task. Such quarterly reviews must document, on a form approved by the board, direct observation of each task or service assigned to the speech-language pathology assistant. These reviews must be signed by both the supervising speech-language pathologist and the speech-language pathology assistant and must be maintained by the supervising speech-language pathologist for a period of four (4) years and must be made available to the director or the designee upon request.

(J) Scope of Practice.

The supervising speech-language pathologist accepts full and complete responsibility for all services and tasks performed or omitted by the speech-language pathology assistant. Provided that education, training, supervision and documentation are consistent with that defined in this chapter, the following tasks may be designated to the speech-language pathology assistant:

(1) Conduct speech-language or hearing screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist.

(2) Provide direct treatment assistance to patients/clients identified by the supervising speech-language pathologist.

(3) Follow documented treatment plans or protocols developed by the supervising speech-language pathologist.

(4) Document patient/client progress toward meeting established objectives as stated in the treatment plan.

(5) Assist the supervising speech-language pathologist during assessment of patients/clients.

(6) Assist with tallying patient/client responses, prepare therapy materials, schedule activities, prepare charts and assist with other clerical tasks as directed by the supervising speech-language pathologist.

(7) Perform checks and maintenance of equipment on a regular basis, and calibration at least annually on audiometric equipment.

(8) Assist the supervising speech-language pathologist in research projects, in-service training and public relations programs.

(9) Sign treatment notes which must be reviewed and co-signed by the supervising speech-language pathologist.

(10) Discuss with the client, the guardian or family members specifically observed behaviors that have occurred during treatment when such behaviors are supported by documented objective data.

(K) Prohibited Activities.

The speech-language pathology assistant must not:

(1) Perform diagnostic tests of any kind, formal or informal evaluations, or interpret test results.

(2) Participate in parent conferences, case conferences, or any interdisciplinary team meetings where diagnostic information is interpreted or treatment plans developed without the presence of the supervising speech-language pathologist or designated licensed speech-language pathologist.

(3) Provide patient/client or family counseling.

(4) Write, develop, or modify a patient/client's treatment plan in any way.

(5) Assist with patients/clients without following a documented treatment plan which has been prepared by a licensed speech-language pathologist and for which the speech-language pathology assistant has not received appropriately documented OJT.

(6) Sign any formal documents (e.g., treatment plans, reimbursement forms or reports) without the signature of the supervising speech-language pathologist.

(7) Select patients/clients for services.

(8) Discharge patients/clients from services.

(9) Disclose clinical or confidential information either orally or in writing to any one not designated in writing by the supervising speech-language pathologist.

(10) Make referrals for additional services.

(11) Provide any interpretation or elaboration of information that is contained in reports written by any licensed speech-language pathologist.

(12) Represent oneself to be a speech-language pathologist.

(13) Make advertisement or public announcement of services independent of the supervising speech-language pathologist.

ARTICLE 2
CONTINUING EDUCATION

115-6. Continuing Education.

(A) Courses used to meet the continuing education requirement must meet at least one of the following conditions:

(1) Courses offered by an American Speech-Language Hearing Association (ASHA) or American Academy of Audiology (AAA) Continuing Education Sponsor.

(2) Courses offered by one of the following organizations: South Carolina Academy of Audiology, South Carolina Speech-Language-Hearing Association, National Institute of Hearing Instruments Studies (NIHIS), Academy of Rehabilitative Audiology, American Auditory Society, Academy of Dispensing Audiology, National Black Association for Speech-Language and Hearing (NBASLH) or other organization approved by the board.

(3) Graduate level courses offered by a regionally accredited college or university within scope of practice (1 semester hour equals 15 hours for 1.5 CEUs).

(4) Courses offered by a state or federal agency provided the courses are within scope of practice.

(B) At least one-half of the continuing education requirement must pertain to clinical practice in the area of licensure.

(C) Not more than two (2) hours of the continuing education requirement may be met by independent study. All independent study must receive prior approval by the board sixty (60) days prior to implementation. Independent study is developing a plan encompassing a variety of activities, such as reading journal articles, observing a master clinician, or reviewing case files. The study shall include the licensee writing a critical review stating how the licensee will incorporate the newly acquired skills and knowledge into practice.

(D) Continuing education requirements may be met by online or electronic courses.

(E) Instructors may receive continuing education credit, equivalent to that received by participants, for preparing and teaching courses, including online and electronic courses, within the scope of practice, subject to once per course.

(F) Submission of false or misleading continuing education information is grounds for immediate revocation of the license to practice and such other disciplinary actions as the board deems appropriate.

(G) Required documentation and audit process:

(1) each licensee shall attest to completion of the required continuing education at the time of license renewal;

(2) each licensee shall maintain records of continuing education hours earned for a period of four (4) years, and such records must be made available to the director or the designee upon request.

Fiscal Impact Statement:

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

Statement of Rationale:

The South Carolina Board of Examiners in Speech-Language Pathology and Audiology proposes to: amend R.115-1 to add “a diploma”; amend R.115-2(C)(3) to add “neurogenics”; modify R.115-2(D)(5) to cite to a regulation; clarify R.115-2(G) that direct supervision means on-site and in person; and add in R.115-6(A)(2) the National Black Association for Speech-Language and Hearing (NBASLH).

Document No. 4860
DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123
Statutory Authority: 1976 Code Sections 50-11-2200 and 50-11-2210

123-204. Additional Regulations Applicable to Specific Properties.

Synopsis:

These regulations amend Chapter 123-204 that governs the conduct and activities of visitors to Wildlife Management Areas, Heritage Preserves, shooting ranges and other lands owned or leased by the Department of Natural Resources.

A Notice of Drafting was published in the *State Register* on October 26, 2018, Volume 42, Issue No. 10.

Instructions:

Amend Regulation 123-204 as follows. Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

The following is a section-by-section summary of the proposed changes and additions:

123-204. Additional Regulations Applicable to Specific Properties.
N. Add Section (4) a-m and Section (5) a-c using text provided.

Z. Insert new text as indicated.
Z.(1) Insert new text as indicated.
Z.(2) Insert new text as indicated.
AA. Capitalize Heritage as part of proper name.

Text:

ARTICLE 5.5

REGULATION OF REAL PROPERTY OWNED AND LEASED BY THE DEPARTMENT

123-204. Additional Regulations Applicable to Specific Properties.

A. Aiken County Gopher Tortoise Heritage Preserve.
(1) Bicycles may be ridden on hiking trails. Bicyclists may ride in groups no larger than five (5).
B. Bay Point Heritage Preserve.
(1) No dogs are allowed.
(2) No person may enter any area of the preserve designated as a nesting area for birds.
C. Bear Branch Heritage Preserve.
Public visitation is by permit only. The preserve is closed to use except by permit.
D. Bear Island.
(1) Except when closed for scheduled hunts, the area is open from 1/2 hour before sunrise to 1/2 hour after sunset.
(2) The property is closed to all public access from November 1 through February 8, except for scheduled hunts.
(3) All terrain vehicles are prohibited.
(4) Camping is allowed only at designated sites and only during scheduled big game hunts.
(5) The area is closed to general public access during scheduled hunts.
(6) Fishing is allowed in designated areas from April 1 through September 30.
E. Bird-Key Stono Heritage Preserve.
(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

F. Caper's Island Heritage Preserve.

(1) Overnight Camping on Capers Island is by permit only. Permit may be obtained from the DNR Charleston office. No more than 80 people will be allowed to camp per night. These 80 people may be divided into no more than 20 different groups.

(2) Permits will be issued on a first come first served basis.

(3) Campsites will be occupied on a first come first served basis.

(4) Permits are not required for day use.

(5) Persons without permits must be off the island by one hour after sunset.

(6) No trash is to be placed in any fire or buried.

(7) Department maintenance facilities on the island are not open to the public.

(8) No crab or fish pots or traps are allowed in impoundments.

(9) No motorized vehicles, non-motorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

G. Crab Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

H. Daws Island Heritage Preserve.

Camping is allowed only by permit issued by the Department. Primitive camping only is allowed. Daws Island camping is limited to two groups of no more than eight people in each group.

I. Deveaux Bank.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) Closed all year above the high tide line (no seasonal closure) except in the recreation area.

(4) No motorized vehicles, bicycles or horses.

J. Donnelley WMA.

(1) Horseback riders must obtain a permit from the Donnelley WMA office prior to riding.

(2) All terrain vehicles are prohibited.

(3) Camping is prohibited.

K. Dungannon Plantation Heritage Preserve.

(1) No person may enter any area of the preserve designated as a nesting area for birds.

(2) Entrance to the preserve is through a designated parking area. Each person must sign in and out of the preserve at a designated entrance/exit.

L. Gopher Branch Heritage Preserve.

Public visitation is by permit only.

M. Great Pee Dee River Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

(2) Each person entering the preserve other than by boat must sign in and out at a designated entrance/exit.

N. Jim Timmerman Natural Resources Area at Jocassee Gorges.

This subsection shall apply to all Department owned and leased land within the boundaries of the Jim Timmerman Natural Resources Area at Jocassee Gorges (hereinafter referred to as Jocassee Gorges).

(1) Camping.

(a) Backcountry camping by permit will be allowed at any time during the year that the main roads allowing access to the Jocassee Gorges are not opened in connection with big game hunting. Backcountry camping is allowed by permit only at any location within the Jocassee Gorges, except for any area closed for camping by the Department. Backcountry camping is defined as minimal impact camping. No fires are allowed and each permitted camper is responsible for camping in a manner that results in no trace of the camping activity being left after breaking camp. Backcountry campers must apply for camping permits over the Department internet site. No camping is permitted within twenty-five (25) feet of a stream, lake, or as posted by the Department.

(b) The Foothills Trail and the Palmetto Trail pass through portions of the Jocassee Gorges. Use of the Foothills Trail and the Palmetto Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trails and within one hundred feet of either side of the trails. Camping along the Foothills Trail and the Palmetto Trail is restricted to hikers while engaged in backpacking.

(2) Operation of motorized, non-motorized vehicles, all-terrain vehicles, and off-road vehicles. Motorized and non-motorized vehicle access to the Jocassee Gorges is limited. Highway 178 and Cleo Chapman Road (county road 143) are the only paved roads that access the property. Access by the general public to the Jocassee Gorges by motorized vehicles will follow a seasonal schedule with the exception of portions of Horsepasture and Camp Adger Roads. Road opening and closing schedules written below are given as general information. The Department may open and close any road at any time and for such duration as deemed necessary by the Department to manage the property.

(a) The operation of a motorized vehicle behind any closed gate is prohibited.

(b) Roads open to year-round public access include a section of Horsepasture Road to Jumping Off Rock (from Highway 178 only) and a section of Camp Adger Road.

(c) All roads with Green gates are seasonally open. All roads with red gates are closed to vehicular traffic. This information will be posted at all major entrances.

(d) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(e) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted the speed limit shall be 15 miles per hour.

(f) Subject to the authority in subsection (d) above, the operation of all terrain vehicles is restricted as follows: Operation of all terrain vehicles is restricted to one hour before sunrise to one hour after sunset each day beginning on Monday and continuing through the following Friday. A person may use an all terrain vehicle while actually engaged in hunting at any time hunting is allowed; provided, however, the operation of an all terrain vehicle is restricted to one hour before sunrise to one hour after sunset with the exception of game retrieval, and an all terrain vehicle may be used only on open roads. All terrain vehicles and off-road vehicles may not be operated on Horsepasture Road or Camp Adger Road during the periods January 16 – March 19 and May 11 – September 14 when the main roads are closed.

(g) All terrain vehicles having three (3) wheels and motorcycles constructed or intended primarily for off road use, such as dirt bikes and motocross bikes, are prohibited within the Jim Timmerman Natural Resources Area at all times.

(h) Bicycles may be ridden on any road or area that is not posted as closed to bicycles except that the Foothills Trail and Palmetto Trail are closed to bicycles.

(3) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

(4) Sassafras Overlook Site. These regulations apply to the portion of Jocassee Gorges designated as the overlook site by the Department.

(a) No camping is allowed on the site.

(b) No fires are allowed on the site.

(c) The hours of operation are one hour before official sunrise to one hour after official sunset, except as permitted by the Department.

(d) No alcohol is allowed on the site.

(e) No motor vehicles are allowed except on public roads and in the designated parking area. Motorized scooters or similar vehicles designed specifically for use by disabled persons may only be used by disabled persons on the site. No ATVs, UTVs or similar vehicles are allowed on the site.

(f) No skateboards, hoverboards or similar devices are allowed on the site.

(g) No exclusive use of the site will be allowed by any party.

(h) No drones may be allowed on the site.

(i) No horses, mules, donkeys or other animals may be allowed on the site except pets as defined below.

(j) No pets will be allowed on the site except for dogs and cats. All pets must be restrained by a leash at all times and may not cause any disruption to other visitors, wildlife or the site. All pet waste must be picked up and removed from the site.

(k) Commercial vending is prohibited on the site.

(l) Special permits may be issued by the Department to allow activities prohibited herein.

(m) All other laws, regulations, and ordinances that apply to the site are also in effect.

(5) Abner Creek Falls Trail

(a) Human foot traffic only is permitted.

(b) No horses, mountain bikes or motor conveyance is permitted, except for motorized scooters or similar vehicles designed specifically for use by disabled persons that may only be used by disabled persons on the site.

(c) No access is allowed from the trail or platform to adjacent areas within 300 feet of the platform.

O. Joiner Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

P. Little Pee Dee Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

Q. Nipper Creek Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

R. North Santee Bar Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

S. St. Helena Sound Heritage Preserve (Ashe Island, Beet Island, Big Island, Warren Island, and South Williman).

Camping is restricted to primitive camping in designated areas only.

T. St. Helena Sound Heritage Preserve (Otter Island).

(1) No dogs are allowed.

(2) Primitive camping only is allowed by permit issued by the Department. Primitive camping is restricted to designated areas and will be allowed only between November 1 and March 31.

U. Samworth WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year. Between November 1 and February 8 these activities will be restricted to designated areas on Butler Creek and the Big Pee Dee River. All public use of this type will be by foot travel only after arriving by watercraft.

(2) The mainland nature trail will be open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

(4) Temporary primitive camping will be available to organized groups by permit. No camping will be allowed that may conflict with organized hunts.

(5) Dirleton grounds are open to the public from 8:30 a.m. until 5:00 p.m., Monday through Friday.

V. Santee Coastal Reserve.

(1) The Santee Coastal Reserve is open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) for limited public use year round except as listed below.

(2) Managed wetlands will be open for wildlife observation, bird watching, photography, or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department.

(3) The dikes around the waterfowl impoundments will be closed, except by prior arrangement, during the period of November 1 through February 8 of the next year.

(4) Prior arrangements must be made with the Reserve Manager to use observation blinds for waterfowl.

(5) Upland trails will be available during open periods stated above.

(6) The beaches on Cedar and Murphy Islands will be open year round, seven days a week.

(7) Bicycles may be ridden on upland trails year round and on dikes from February 9 - October 31.

(8) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled waterfowl hunts. Fishing will be allowed during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset). Fishing is permitted on Murphy and Cedar Island beaches at any time on a year round basis.

(9) Primitive camping is allowed year round with no registration on the beaches of Murphy and Cedar Islands. Camping on the mainland portion is restricted to the designated campground. Registration is required at the campground self-serve kiosk. Advance registration is required for groups greater than 15 people.

W. Santee-Delta WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department. Area closed to all public access from November 1 through February 8 except for special hunts and events regulated by the Department. All public use of this type will be by foot travel only.

(2) All terrain vehicles, bicycles, and horses are prohibited.

(3) Camping is prohibited.

X. Shealy's Pond Heritage Preserve.

Gasoline powered motors on boats are prohibited.

Y. Tillman Sand Ridge Heritage Preserve.

(1) Camping is allowed in designated campsites during designated hunts only.

Z. Tom Yawkey Wildlife Center.

The Center is a state designated sanctuary. The sanctuary designation makes trespassing, fishing, and hunting unlawful in the areas above the mean low water line.

(1) Public visitation is by pre-scheduled educational field trips only. The scheduling of educational field trips is at the discretion of SCDNR.

(2) Primitive camping is allowed by permit only. Requests for permits should be no less than 2 weeks prior to their effective date. Primitive camping is allowed only at Department designated locations along the beach front from September 16 – May 14. Only one permit will be issued for each location at a time. Camping is allowed for a period of not more than 4 consecutive nights per individual permit holder.

AA. Victoria Bluff Heritage Preserve.

(1) No campfires or any other use of fire shall be allowed.

BB. Waccamaw River Heritage Preserve.

Primitive camping only is allowed. Camping is allowed only along riverbanks and on sandbars; campers may approach only by backpacking or boat.

CC. Watson Cooper Heritage Preserve.

Camping is restricted to primitive camping. No live plants may be cut or cleared to improve or expand a campsite. No campsites or campfires within 25 feet of a stream or creek.

DD. Webb WMA.

(1) Webb WMA is closed to the general public from one hour after official sunset to one hour before official sunrise.

(2) Overnight visitors to the Webb Center are not restricted in hours of access.

(3) No camping without a permit except for deer, turkey, and hog hunters on nights before a designated hunt.

(4) Bicycles may be ridden on any area that is not marked or posted as restricted to bicycles. No bicycle may be operated in any manner or place that will damage or degrade any feature or habitat. During scheduled big game hunts, bicycles and all terrain vehicles are prohibited except as used by legal hunters and anglers.

EE. Laurel Fork Heritage Preserve.

(1) All terrain vehicles may be ridden on the portions of Cane Break and Horsepasture roads on the Preserve subject to the same rules as the Jim Timmerman Natural Resources Area at Jocassee Gorges.

FF. Botany Bay Plantation WMA.

(1) No camping is allowed.

(2) All terrain vehicles are prohibited except those permitted by the Department for special management activities.

(3) The Fig Island shell rings are closed to all public access except organized scientific, management or educational activities permitted by the the Department.

(4) Access to the beach is by foot, bicycle or boat; no horses allowed on the beach. No dogs allowed on the beach. No collection, removal or possession of shells, fossils, driftwood or cultural artifacts is permitted.

(5) Sea Cloud Landing on Ocella Creek and all other designated access points are restricted to non-trailered watercraft.

(6) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow instructions on the pass.

(7) Botany Bay Plantation WMA is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(8) No person may gather, collect, deface, remove, damage, disturb, destroy, or otherwise injure in any manner whatsoever the plants, animals (except lawful hunting), fungi, rocks, minerals, fossils, artifacts, or ecofacts including but not limited to any tree, flower, shrub, fern, moss, charcoal, plant remains, or animal remains. The Department may authorize the collection of certain material upon issuance of a permit as provided in 123-206.

(9) Shorebased fishing, shrimping, and crabbing, is allowed only on the front beach and in designated areas only.

(10) The Department reserves the right to close specific areas as needed for management purposes.

(11) Alcoholic beverages are prohibited on the area.

GG. McBee WMA.

(1) All terrain vehicles are prohibited.

HH. Campbells Crossroads and Angelus Tract.

(1) All terrain vehicles are prohibited.

II. Pee Dee Station WMA.

(1) All terrain vehicles are prohibited.

JJ. Daily use cards are required for all users of Hamilton Ridge WMA, Palachucola WMA, Webb WMA, Tillman Sand Ridge Heritage Preserve, Bonneau Ferry WMA, Bear Island WMA, Donnelley WMA, Great Pee Dee River Heritage Preserve, Belfast WMA, Congaree Bluffs Heritage Preserve, Marsh WMA, Woodbury WMA, Worth Mountain WMA, Liberty Hill WMA and Santee Cooper WMA. Cards must be in possession while on the property and completed cards must be returned daily upon leaving the property.

KK. Liberty Hill WMA

(1) All-terrain vehicles are prohibited.

(2) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for hunts and special events regulated by the Department.

LL. Wateree River HP WMA

(1) All-terrain vehicles are prohibited.

(2) The waterfowl impoundments are closed to all public access from November 1 through March 1, except for scheduled hunts.

(3) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(4) All users, including hunters and anglers must obtain and possess a day use pass upon entering the area and follow instructions on the pass. The completed form must be deposited in the designated container before leaving the area.

(5) Special events may be permitted by the Department.

(6) Horseback riding is prohibited except by special permit.

MM. Lewis Ocean Bay HP WMA

(1) Horseback riding is also allowed during the period January 2 through March 1, subject to the restrictions in Regulation 123-203, Paragraph G, sections (2) through (11).

Fiscal Impact Statement:

These amendments of Regulation 123-204 will result in increased public recreational opportunities on public properties throughout the state. Local economies should benefit from sales of food and overnight accommodations, and sales taxes on these items will also directly benefit government.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in establishing public hunting and recreational use areas. New areas are evaluated based on location, size, natural resource values, sensitive elements, access and recreation use potential. Regulations for the use of Sassafras Tower Site are necessary to insure safety of users and protect resources at the site.

Document No. 4834
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Sections 50-1-60 50-1-200, 50-1-220, 50-9-650, 50-11-10, 50-11-105, 50-11-310, 50-11-315, 50-11-320, 50-11-365, 50-11-390, 50-11-410, 50-11-430, 50-11-500, 50-11-520, 50-11-525, 50-11-530, 50-11-580, 50-11-2200
and 50-11-2210

123-40. Wildlife Management Area Regulations
123-51. Turkey Hunting Rules and Seasons
123-52. Date Specific Antlerless Deer Tags, Individual Antlerless Deer Tags, and Antlerless Deer Limits for Private Lands in Game Zones 1-4
123-53. Bear Hunting Rules and Seasons
123-54. Chronic Wasting Disease Carcass Importation Regulations

Synopsis:

These regulations amend Chapter 123-40 Wildlife Management Area Regulations, 123-51 Turkey Hunting Rules and Seasons, 123-52 Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-4, 123-53 Bear Hunting Rules and Seasons, and 123-54 Chronic Wasting Disease Carcass Importation Regulations in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing Wildlife Management Areas, standardize turkey regulations on properties in the WMA program, provide for expanded opportunity for hunting and fishing on public lands, provide disease prevention measures, and clarify antlerless deer tag regulations and expand bear season.

A Notice of Drafting for this regulation was published on September 28, 2018 in the *South Carolina State Register*, Volume 42, Issue No. 9.

Instructions:

Amend Regulations 123-40, 123-51, 123-52, 123-53, and 123-54 as indicated below. Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

123-40. Wildlife Management Area Regulations.
A. Game Zone 1
3. Delete number 2 as indicated.
4. Renumber as number 3 to accommodate change above.
B. Game Zone 2
6. Belfast WMA
(a) Delete stricken text as indicated.
C. Game Zone 3
2. Crackerneck WMA and Ecological Reserve
(b)(ii) Delete stricken text as indicated.
(c)(ii) Delete stricken text as indicated.
(d)(ii) Delete stricken text as indicated.
8. Santee Cooper WMA
(a) Add new text as indicated.
(e) Add new section (e) as indicated.
(e) Change (e) to (f) to accommodate changes above.
9. Webb WMA
(b) Delete stricken text as indicated.
(c)(i) Insert new text as indicated.

10. Bear Island WMA
(a) Delete stricken text as indicated.
11. Donnelley
(a) Delete stricken text as indicated.
18. Palachucola WMA
(d)(i) Insert text as indicated.
22. Hamilton Ridge WMA
(d)(i) Insert text as indicated.
D. Game Zone 4
2. Marsh WMA
(h) Add text as indicated.
(i) Insert new section (i) with text as indicated.
General Regulations
4.2 Delete stricken text and insert new text as indicated.
4.4. (c) Delete stricken text and insert new text as indicated.
(d) Insert new text as indicated.
4.7. Delete stricken text and insert new text as indicated.
10.7. Insert new text as indicated
10.11. Insert new text as indicated.
10.12. Insert new text as indicated
10. (a) Insert new text as indicated
(b) Insert new text as indicated
(c) Change previous (b) to (c) to accommodate changes above
10.19. Add by inserting new section and new text as indicated.

123-51. Turkey Hunting Rules and Seasons
1. Insert new text as indicated
C.2. (b) Delete stricken text and insert new text as indicated.
E. 2. (f) Insert new section (f) with new text as indicated

123-52 Insert new text as indicated.
3. Delete stricken text and insert new text as indicated.
4. Insert new text as indicated.
7. Delete stricken text and insert new text as indicated.

123-53. Bear Hunting Rules and Seasons
1. Delete stricken text and insert new text as indicated.
2. Add new Section 2 using new text as provided.
2. Renumber to accommodate changes above.
3. Renumber to accommodate changes above.
4. Renumber to accommodate changes above.
5. Renumber to accommodate changes above.
6. Renumber to accommodate changes above.2.

123-54. Insert new text as indicated
Add Section 3 using new text as provided.
Section 3. Renumber as Section 4 to accommodate changes above.

Text:

ARTICLE 3

WILDLIFE AND FRESH WATER FISHERIES DIVISION—HUNTING REGULATIONS

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

A. Game Zone 1
1. Other WMAs
(a) Archery Hunts for Deer
(i) Oct. 17 – Oct. 30
(b) Primitive Weapons for Deer
(i) Oct. 1 through Oct. 10
(c) Still Gun Hunts for Deer
(i) Oct. 11 through Oct. 16; Oct. 31 – Jan. 1
(d) Still Gun Hunts for Bear
(i) Game Zone 1 seasons and bag limits apply
(e) Special Party Dog Hunt for Bear
(i) Game Zone 1 seasons and bag limits apply
(f) Small Game
(i) Game Zone 1 seasons and bag limits apply

(g) Hog Hunts with Dogs
(i) Jan. 2 – Jan. 10, Mar. 20 - Mar. 28

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve
(a) Archery Hunts for Deer.
(i) Oct. 1 – Jan. 1
(b) Small Game
(i) Game Zone 1 seasons and bag limits apply

3. Long Creek Tract
(a) Game Zone 1 seasons and bag limits, except small game only between Thanksgiving Day and Mar. 1

B. Game Zone 2

1. Other WMAs
(a) Archery Hunts for Deer
(i) Sept. 15 – Sept. 30
(b) Primitive Weapons for Deer
(i) Oct. 1 through Oct. 10
(c) Still Gun Hunts for Deer
(i) Oct. 11 through Jan. 1
(d) Small Game
(i) Game Zone 2 seasons and bag limits apply
(e) Hog Hunts with Dogs
(i) Jan. 2 - 10, Mar. 20 - 28

2. Keowee WMA
(a) Designated as a Quality Deer Management Area. No hunting is allowed in research and teaching areas of Keowee WMA posted with white signs except those special hunts for youth or mobility-impaired as conducted by the Department.
(b) North of Hwy 123 and west of the Keowee arm of Lake Hartwell, and west of Hwy 291, small game hunting with shotguns only. All other areas are archery only for small game.
(c) Archery Hunts for Deer
(i) Oct. 15- Dec. 22
(d) Raccoon and Opossum
(i) Game Zone 2 seasons and bag limits
(e) Other Small Game
(i) Game Zone 2 seasons and bag limits apply.
(ii)No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.

3. Draper WMA
(a) Data cards required for hunter access, except draw dove hunts. Completed data cards must be returned daily before leaving the WMA.
(b) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(c) Primitive Weapons for Deer
(i) Oct. 1 - Oct. 10
(d) Still Gun Hunts for Deer
(i) Oct. 11 - Jan. 1
(e) Quail Hunts
(i) 1st and 2nd Sat. in Dec., 3rd and 4th Wed. in Dec., 1st and 2nd Wed. and Sat. in Jan.
(ii) Game Zone 2 bag limit
(iii) PM Shooting hours end 30 minutes prior to official sunset.
(f) Rabbit Hunts
(i) Wed. and Sat. in Jan. and Feb. following the last scheduled quail hunt until Mar. 1
(ii) Game Zone 2 bag limit

(g) Other Small Game (no fox squirrels)
(i) Zone 2 seasons and bag limits apply

4. Fant's Grove WMA

(a) Designated as a Quality Deer Management Area
(b) Archery Deer Hunts
(i) Oct. 15- Dec. 22
(c) Special Gun Hunts for Deer
(i) Hunters selected by drawing
(ii) Total 1 deer, either-sex.
(d) Raccoon and Opossum
(i) Game Zone 2 seasons and bag limits
(e) Other Small Game
(i) Game Zone 2 seasons and bag limits apply
(ii) No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.
(iii) Waterfowl may be hunted Wed. and Sat. AM only.

5. Rock Hill Blackjacks HP WMA

(a) Archery Deer Hunts
(i) Sept. 15 – Jan. 1
(b) Small Game
(i) No small game hunting

6. Belfast WMA

(a) All terrain vehicles are prohibited. All harvested deer and turkeys must be checked in at the Belfast Check Station. Belfast WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Public visitation is not allowed during scheduled deer and turkey hunts. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Belfast WMA.
(b) Designated as a Quality Deer Management Area.
(c) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(d) Still Gun Hunts for Deer
(i) Hunters selected by drawing
(e) Small Game (no fox squirrels)
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 2 bag limits

7. Broad River Waterfowl Management Area

(a) Archery Deer Hunts
(i) Sept. 15 – Oct. 31
(b) Small Game
(i) Feb. 8 – Mar. 1
(ii) Game Zone 2 bag limits

8. McCalla WMA

(a) Designated as a Quality Deer Management Area.
(b) Deer Hunts
(i) Game Zone 2 seasons
(c) Small Game
(i) Game Zone 2 seasons and bag limits apply
(d) Hog Hunts with Dogs
(i) Jan. 2 - 10, Mar. 20 - 28
(e) Special Hunt Area for Youth and Mobility Impaired Hunters
(i) No open season except for hunters selected by drawing
(ii) 1 deer per day, either-sex

9. Worth Mountain WMA

(a) Designated as a Quality Deer Management Area
(b) Deer Hunts
(i) Game Zone 2 seasons
(c) Small Game
(i) Game Zone 2 seasons and bag limits apply.

10. Liberty Hill WMA
(a) Designated as a Quality Deer Management Area.
(b) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(c) Primitive Weapons for Deer
(i) Oct. 1 - Oct. 10
(d) Still Gun Hunts for Deer
(i) Oct. 11 - Jan. 1
(e) Small Game (no fox squirrels)
(i) Zone 2 seasons and bag limits apply.

11. Delta North WMA
(a) Deer Hunts
(i) Game Zone 2 seasons
(b) Small Game (no fox squirrels)
(i) Game Zone 2 seasons and bag limits apply

12. Delta South WMA
(a) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(b) Still Gun Hunts for Deer
(i) Nov. 1-Nov. 21, Wednesdays and Saturdays Only.
(ii) Special hunts for youth or mobility impaired hunters as published by SCDNR.
(c) Small Game (no fox squirrels)
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 2 bag limits

13. Forty Acre Rock HP WMA
(a) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(b) Primitive Weapons for Deer
(i) Oct. 1 - Oct. 10
(c) Still Gun Hunts for Deer
(i) Oct. 11 - Jan. 1
(d) Small Game (no fox squirrels)
(i) Game Zone 2 seasons and bag limits apply

C. Game Zone 3

1. Other WMAs
(a) Archery Deer Hunts
(i) Sept. 15 - Sept. 30
(b) Still Gun Hunts for Deer
(i) Oct. 1 - Jan. 1
(c) Small Game
(i) Game Zone 3 seasons and bag limits apply

2. Crackerneck WMA and Ecological Reserve

(a) All individuals must sign in and out at main gate. Designated as a Quality Deer Management Area. Scouting seasons (no weapons), will be Saturdays only during September, March, and May. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. On all raccoon

hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

(b) Archery Deer Hunts

(i) 1st Fri. and Sat. in Oct

(c) Primitive Weapons Deer Hunts (no buckshot).

(i) 2nd Fri. and Sat. in Oct.

(d) Still Gun Hunts for Deer

(i) 3rd Fri. in Oct. – Jan. 1, Fri., Sat. and Thanksgiving Day only except closed Dec. 25.

(e) Raccoon and Opossum

(i) 3rd Sat. night in Oct. – Jan. 1, Sat. nights only, except closed Dec. 25, 1st Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.

(ii) 3 raccoons per party per night

(f) Hog Hunts with Dogs (handguns only)

(i) 1st Fri. after Jan. 1 – last Fri. in Feb. Fridays only

(ii) No limit.

(g) Other Small Game (except no open season on bobcats, foxes, otters or fox squirrels).

(i) 3rd Fri. in Oct. – last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only except closed Dec. 25.

(ii) Game Zone 3 bag limits

3. Aiken Gopher Tortoise Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Sept. 30

(b) Still Gun Hunts for Deer

(i) Oct. 1 – Jan. 1.

(c) Small Game (no fox squirrels).

(i) Thanksgiving day – Mar. 1.

(ii) Game Zone 3 bag limits.

4. Ditch Pond Heritage Preserve WMA

(a) Archery Deer Hunts.

(i) Sept. 15 – Jan. 1

(b) Small Game (no fox squirrels).

(i) Thanksgiving day – Mar. 1.

(ii) Game Zone 3 bag limits.

5. Henderson Heritage Preserve WMA

(a) Archery Deer Hunts.

(i) Sept. 15 – Jan. 1

6. Francis Marion National Forest

(a) During deer hunts when dogs are used, buckshot only is permitted. On hunts with dogs, all deer must be checked in by one hour after legal sunset. Individual antlerless deer tags are not valid during dog hunts for deer. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. No fox or coyote hunting with dogs on the Francis Marion.

(b) Hog Hunts with Dogs

(i) 3rd full week in Mar., 3rd full week in May

(c) Still Hog Hunts

(i) First full week in Mar.

(d) Hellhole WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Still Gun Hunts for Deer

(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts

(iii) Deer Hunts with Dogs (shotguns only)

(1) 1st Sat. in Nov., 1st Sat. in Dec.

(a) 2 deer per day, buck only

(iv) Youth Only Deer Hunt with Dogs

(1) Sat. following the 2-day Wambaw buck only hunt in Nov.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.

(v) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(e) Waterhorn WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Muzzleloader Hunts for Deer

(1) Oct. 11 - Oct. 20

(iii) Still Gun Hunts for Deer

(1) Every Friday and Saturday beginning Nov. 1.

(iv) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.

(f) Wambaw WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Still Gun Hunts for Deer

(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts west of Hwy 17.

(2) Still gun hunts only East of Hwy 17. No buckshot.

(iii) Deer Hunts with Dogs (shotguns only)

(1) Fri. in Sept. before the last Sat. Northampton dog hunt, Wed. and Thurs. before the 3rd Sat. in Nov. and 2nd Sat. in Oct., first 2 days excluding Sunday after Dec. 25

(a) 2 deer per day, buck only

(2) 2nd Sat. in Dec.

(a) 1 deer per day

(b) All deer must be checked in at designated check stations.

(iv) Youth Only Deer Hunt with Dogs

(1) 1st date specific either-sex day in November.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.

(v) Seewee Special Use Area

(1) Archery Deer Hunts

(2) Sept. 15 – Jan. 1

(vi) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(g) Northampton WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Still Gun Hunts for Deer

(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts.

(iii) Deer Hunts with Dogs (shotguns only)

(1) Last Sat. in Sept., Wed. and Thurs. before the 2nd Sat. in Oct., Fri. before the 4th Sat. in Nov., 3rd day excluding Sunday after Dec. 25

(a) 2 deer per day, buck only

(2) 2nd Sat. in Dec.

(a) 1 deer per day

(b) All deer must be checked in at designated check stations.

(iv) Youth Only Deer Hunt with Dogs
(1) Last Saturday in Nov.
(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
(v) Small Game (no open season for fox hunting)
(1) Game Zone 3 seasons and bag limits apply.
(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(h) Santee WMA

(i) Archery Deer Hunts
(1) Sept. 15 - Oct. 10
(ii) Still Gun Hunts for Deer
(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts
(iii) Deer Hunts with Dogs (shotguns only)
(1) 2nd Fri. and Sat. in Sept., Wed. and Thurs. before the 4th Sat. in Oct., 1st Fri. in Dec.
(a) 2 deer per day, buck only
(2) 2nd Sat. in Dec.
(a) 1 deer per day
(b) All deer must be checked in at designated check stations.
(iv) Youth Only Deer Hunt with Dogs
(1) 3rd Sat. in Oct.
(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
(v) Small Game (no open season for fox hunting)
(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

7. Moultrie

(a) No hunting or shooting within fifty feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts.

(b) Bluefield WMA

(i) Open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth are allowed to carry a weapon and hunt.
(ii) Still Gun Hunts for Deer
(1) Sept. 15 – Jan. 1, Wed. and Sat. only
(iii) Small Game (no fox squirrels)
(1) Game Zone 3 seasons and bag limits apply.
(2) No small game hunting during scheduled deer hunts.

(c) Greenfield WMA

(i) Still Gun Hunts for Deer
(1) Sept. 15 – Jan. 1
(ii) Small Game (no fox squirrels)
(1) Thanksgiving Day - Mar. 1
(2) Game Zone 3 bag limits

(d) North Dike WMA

(i) Still Gun Hunts for Deer
(1) Sept. 15 - Oct. 15.
(ii) Special Gun Hunts for youth and women
(1) Hunters selected by drawing.
(2) 1 deer per day
(iii) Small Game (no fox squirrels)
(1) Jan. 2 - Mar. 1
(2) Game Zone 3 bag limits.
(3) Sandy Beach Waterfowl Area open for raccoon hunting Feb. 1 – Mar. 1

(e) Porcher and Hall WMAs

(i) Archery Deer Hunts

(1) Sept. 15 – Jan. 1

(ii) Small Game (no fox squirrels) shotguns only

(1) Jan. 2 – Mar. 1

(2) Game Zone 3 bag limits

(f) Cross Station Site

(i) Special Gun Hunts for youth and women

(1) No open season except hunters selected by drawing

(2) 1 deer per day

8. Santee Cooper WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. Hunters limited to two deer/tree stands which must contain a label with the hunter's name and address. No stands may be placed on Santee Cooper WMA prior to Sept. 1. Campground is open during scheduled deer hunts only. All impoundments and posted buffers are closed to all public access Nov. 1 – Feb. 8 except during hunts as prescribed by the Department.

(b) Designated as a Quality Deer Management Area

(c) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(d) Primitive Weapons Deer Hunts

(i) Nov. 1 - Monday before Thanksgiving Day

(e) Special Gun Hunts for youth

(i) Hunters selected by drawing.

(ii) 1 deer per day

(f) Small Game

(i) Thanksgiving Day – Mar. 1

(ii) Game Zone 3 bag limits

9. Webb WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving. Designated as a Quality Deer Management Area.

(b) Still Hunts for Deer

(i) Hunters selected by drawing

(ii) 2 deer, either-sex but only 1 buck

(c) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 4th Thurs. – Sat. in June, 4th Thurs. – Sat. in July, and last Thurs. - Sat. in August

(d) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Game Zone 3 bag limit

(iii) Shooting hours end 30 minutes prior to official sunset

(e) Raccoon and Opossum

(i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1

(ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.

(iii) Game Zone 3 bag limits

(f) Other Small Game (no fox squirrels)

(i) The full week of Thanksgiving, Dec. 15 - Mar. 1

(ii) Game Zone 3 bag limits

(g) Dove Hunting

(i) Designated public dove field only on specified days.

10. Bear Island WMA

(a) All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only.

(b) Archery Deer Hunts

(i) Oct. 1 - Oct. 10

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing
(ii) 3 deer, either-sex but only 1 buck
(d) Hog Hunts with Dogs
(i) 1st Thurs. – Sat. in March
(e) Alligator Hunts (Bear Island East and West Units only)
(i) Hunters selected by drawing only. Limited season with restricted access.
(ii) Limit and size restrictions as prescribed.
(f) Small Game
(i) Feb. 8 - Mar. 1
(ii) Game Zone 3 bag limits

11. Donnelley WMA

(a) All hunters must sign in and out at the check station. Hunting in designated areas only. (b) Archery Deer Hunts
(i) Sept. 15 - Sept. 30
(c) Still Gun Hunts for Deer
(i) Hunters selected by drawing
(ii) 3 deer, either-sex but only 1 buck
(d) Hog Hunts with Dogs
(i) 1st Thurs. – Sat. in March
(e) Small Game (no fox squirrels)
(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 3 bag limits

12. Hatchery WMA

(a) Archery Deer Hunts
(i) Sept. 15 - Jan. 1

13. Bonneau Ferry WMA

(a) All terrain vehicles prohibited. Hunting access by boat is prohibited. For hunting, the Adult/youth side is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game, regulations for the adult/youth and general use sides of the property will alternate each year as prescribed by the Department. All hunters must sign in and sign out upon entering or leaving. All deer must be checked out at the main entrance. Closed to public access one hour after sunset until one hour before sunrise except for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Feb. 8 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts. No fox hunting.

(b) Adult/Youth Side
(i) Still Gun Hunts for Deer
(1) Sept. 15 – Jan. 1, Wed., Fri. and Sat., entire week of Thanksgiving and 5 days before Christmas until Jan. 1
(c) General Use Side
(i) Archery Deer Hunts
(1) Sept. 15 - Sept. 30
(ii) Still Gun Hunts for Deer
(1) Hunters selected by drawing
(2) Total 3 deer, either-sex except only 1 buck.
(3) Hunters are required to have permit in possession and must sign in and out (Name, permit # and deer killed each day).
(d) Small Game (no fox squirrels or fox)
(i) Jan. 2 – Mar. 1
(ii) Game Zone 3 bag limits
(iii) Dogs allowed during gun seasons only
(e) Bonneau Ferry Fishing Regulations

(i) Open to fishing on Thurs. through Sun. from Mar. 2 – Oct. 31 during daylight hours only

(ii) Adult/youth fishing only. Each youth (17 years and under) must be accompanied by no more than two adults 18 years of age or older.

(iii) The youth must actively fish.

(iv) Fishing is not allowed during scheduled deer and turkey hunts.

(v) Only electric motors may be used.

(vi) Creel limits per person per day are: largemouth bass – 2, panfish (bluegill, redear, crappie, pumpkinseed, redbreast) – 10, catfish – 5, species not listed – no limit. Grass carp must be released alive immediately.

14. Santee Coastal Reserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(ii) Hunting on mainland only

(b) Hog Hunts with Dogs

(i) 2nd full week in March

(c) Alligator Hunts

(i) Hunters selected by drawing only. Limited season with restricted access.

(ii) Limit and size restrictions as prescribed

(d) Small Game (no fox squirrels)

(i) Thanksgiving Day – Mar. 1

(ii) Game Zone 3 bag limits

15. Dungannon Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(b) Small Game (no fox squirrels)

(i) Thanksgiving Day - Jan. 31

(ii) Game Zone 3 bag limits

16. Edisto River WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Oct. 10

(b) Still Gun Hunts for Deer

(i) Oct. 11 – Jan. 1

(c) Raccoon and Opossum

(i) Game Zone 3 seasons and bag limits

(d) Other Small Game

(i) Thanksgiving Day - Mar. 1

(ii) Game Zone 3 bag limits

17. Canal WMA

(a) Quail Hunts

(i) Game Zone 3 season and bag limit

18. Palachucola WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) 3 deer, either-sex but only 1 buck

(d) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 4th Thurs. – Sat. in June, 4th Thurs. – Sat. in July, and last Thurs. - Sat. in August

(e) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
(ii) Game Zone 3 bag limit
(iii) Shooting hours end 30 minutes prior to official sunset.
(f) Raccoon and Opossum
(i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1
(ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
(iii) Game Zone 3 bag limits
(g) Other Small Game (no fox squirrels)
(i) The full week of Thanksgiving, Dec. 15 - Mar. 1
(ii) Game Zone 3 bag limits

19. St. Helena Sound Heritage Preserve WMA

(a) Deer hunting by permit only obtained at McKenzie Field Station. Camping by special permit only and on Otter Island only. No small game hunting.
(b) Ashe, Beet, Warren, Otter, Big and South Williman Archery Deer Hunts
(i) Sept. 15 – Jan. 1

20. Tillman Sand Ridge Heritage Preserve WMA

(a) Archery Deer Hunts
(i) Sept. 15 - Jan. 1
(b) Small Game (no fox squirrels)
(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 3 bag limits

21. Victoria Bluff Heritage Preserve WMA

(a) Archery Deer Hunts
(i) Sept. 15 - Jan. 1
(b) Small Game (no fox squirrels)
(i) Jan. 2 - Mar. 1
(ii) Game Zone 3 bag limits
(iii) Shotguns only

22. Hamilton Ridge WMA

(a) Designated as a Quality Deer Management Area. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.
(b) Archery Deer Hunts
(i) Sept. 15 - Oct. 10
(c) Still Gun Hunts for Deer
(i) Hunters selected by drawing
(ii) 3 deer, either-sex but only 1 buck
(d) Hog Hunts with Dogs
(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 4th Thurs. – Sat. in June, 4th Thurs. – Sat. in July, and last Thurs. - Sat. in August.
(e) Quail Hunts
(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
(ii) Game Zone 3 bag limit
(iii) Shooting hours end 30 minutes prior to official sunset.
(f) Raccoon and Opossum
(i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1
(ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
(iii) Game Zone 3 bag limits
(g) Other Small Game (no fox squirrels)
(i) The full week of Thanksgiving, Dec. 15 - Mar. 1.
(ii) Game Zone 3 bag limits
(iii) Dove hunting on designated public dove field only

23. Old Island Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Jan. 1

24. Botany Bay Plantation Heritage Preserve WMA

(a) Designated as a Quality Deer Management Area. All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to ½ hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10, Mon. – Sat. during the week of Thanksgiving, Mon. – Sat. during the week of Christmas.

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) Total 3 deer, either-sex but only 1 buck

(iii) Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

(d) Small Game (no fox squirrels or foxes)

(i) Jan. 2 – Mar. 1 (Wed. through Sat. only)

(ii) Game Zone 3 bag limits

(iii) Dogs allowed during gun seasons only

25. Congaree Bluffs Heritage Preserve WMA

(a) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) Total 1 deer per day, either-sex

26. Wateree River Heritage Preserve WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) 3 deer, either-sex but only 1 buck

(d) Small Game (no fox squirrels)

(i) Jan. 2 - Mar. 1

(ii) Game Zone 3 bag limits.

27. South Fenwick Island

(a) Deer hunting by permit only. Primitive camping is allowed by permit within designated areas. Permits available from DNR through the McKenzie Field Station. Property is closed to other users during scheduled deer hunts.

(b) Archery Deer Hunts

(i) October 1-10

D. Game Zone 4

1. Other WMAs

(a) Archery Deer Hunts.

(i) Sept. 15 - Oct. 10

(b) Still Gun Hunts for Deer

(i) Oct. 11 – Jan. 1

(c) Small Game

(i) Game Zone 4 seasons and bag limits apply

2. Marsh WMA

(a) All visitors to Marsh WMA are required to sign in upon entry to the WMA and sign out upon exit from the WMA and provide any additional information requested. No ATVs allowed.

(b) Special Hunt Area for Youth and Mobility Impaired Hunters

(i) No open season except for hunters selected by drawing

(ii) 1 deer per day, either-sex

(c) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(d) Still Gun Hunts for Deer

(i) Nov. 1 - Nov. 30

(e) Still Hog Hunts

(i) First full week in Mar.

(f) Hog Hunts with Dogs

(i) 3rd full week in Mar. and 3rd full week in May

(g) Raccoon and Opossum Hunts

(i) Game Zone 4 seasons and bag limits

(h) Other Small Game (no fox squirrels)

(i) Thanksgiving – Mar. 1

(ii) Game Zone 4 bag limits

(i) Quail Hunts

(i) Monday before Thanksgiving, Thanksgiving Day, 1st & 3rd Wed. in December, 1st & 3rd Sat. in December, 2nd Wed. & Sat. in January.

(ii) Game Zone 4 bag limit.

(iii) Shooting hours end 30 minutes prior to official sunset.

3. Sand Hills State Forest WMA

(a) Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man-drives allowed.

(b) Archery Deer Hunts

(i) Sept. 15 – Oct. 10

(c) Still Gun Hunts for Deer

(i) Oct. 11 – Jan. 1

(d) Small Game

(i) Game Zones 4 seasons and bag limits apply. No daytime fox hunting from Sept. 15 – Jan. 1

4. McBee WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Oct. 10

(b) Still Gun Hunts for Deer.

(i) Oct. 11 - Saturday before Thanksgiving

(c) Quail

(i) no open season except hunter selected by drawing. Game Zone 4 bag limit.

(d) Other Small Game (no fox squirrels)

(i) Jan. 15 - Mar. 1

(ii) Game Zone 4 bag limits

5. Pee Dee Station Site WMA

(a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(c) Primitive Weapons Deer Hunts

(i) Nov. 1 - Nov. 30

(d) Small Game (no fox squirrels)

(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 4 bag limits

6. Woodbury WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

(b) Designated as a Quality Deer Management Area

(c) Archery Deer Hunts
(i) Sept. 15 – Oct. 10

(d) Primitive Weapons Deer Hunts
(i) Oct. 11 - Oct. 20

(e) Still Gun Hunts for Deer
(i) Oct. 21 - Jan. 1

(f) Still Hog Hunts
(i) First full week in Mar.

(g) Hog Hunts with Dogs
(i) 3rd full week in Mar. and 3rd full week in May

(h) Raccoon and opossum
(i) Game Zone 4 seasons and bag limits

(i) Other Small Game (no fox squirrels)
(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 4 bag limits

7. Little Pee Dee Complex WMA

(a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunters Island and Huggins tracts in Horry Co. which are part of Dargan HP.

(b) Archery Deer Hunts
(i) Sept. 15 – Oct. 10

(c) Primitive Weapons Deer Hunts
(i) Oct. 11 – Oct. 20.

(d) Still Gun Hunts for Deer
(i) Oct. 21 - Jan. 1.

(e) Still Hog Hunts
(i) First full week in Mar.

(f) Hog Hunts with Dogs
(i) 2nd full week in Mar.

(g) Raccoon and Opossum
(i) Game Zone 4 seasons and bag limits

(h) Other Small Game (no fox squirrels)
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 4 bag limits

(i) Bear Season
(i) October 17 – October 30

8. Great Pee Dee Heritage Preserve WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

(b) For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset.

(c) Archery Deer Hunts
(i) Sept. 15 - Oct. 31

(d) Still Gun Hunts for Deer
(i) Nov. 1 - Nov. 30

(e) Still Hog Hunts
(i) First full week in March

(f) Hog Hunts with Dogs
(i) 3rd full week in Mar. and 3rd full week in May
(g) Raccoon and Opossum
(i) Game Zone 4 seasons and bag limits
(h) Other Small Game (no fox squirrels)
(i) Thanksgiving Day to Mar. 1
(ii) Game Zone 4 bag limits.

9. Longleaf Pine Heritage Preserve WMA

(a) Archery Deer Hunts
(i) Sept. 15 - Oct. 10
(b) Still Gun Hunts for Deer
(i) Oct. 11 - Jan. 1
(c) Small Game (no fox squirrels)
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 4 bag limits.

10. Manchester State Forest WMA

(a) Deer must be checked at designated check stations. Individual antlerless deer tags are not valid during dog hunts for deer.
(b) Archery Deer Hunts
(i) 3rd Mon. in Sept. – the following Sat.
(c) Primitive Weapons Deer Hunts

(i) 4th Mon. in Sept. – following Sat.
(d) Deer Hunts with Dogs
(i) Clubs selected by drawing.
(ii) 10 antlered deer per day per club, 5 antlerless deer per day per club, 1 deer per person.
(e) Still Gun Hunts for Deer
(i) 5th Mon. in Sept. – following Sat., 1st Mon. in Oct. – following Sat., 2nd Mon. in Oct. – following Sat., 3rd Tues. in Oct. – following Fri., 4th Tues in Oct. – following Fri., 5th Tues. in Oct. – following Thurs., 1st Tues. in Nov. – following Fri., 2nd Tues in Nov. – following Sat., 3rd Tues. in Nov. – following Fri., Mon. – Sat. the week of Thanksgiving, 4th Mon. in Nov. – following Fri., 1st Tues. in Dec. – following Fri., 1st full week following the 1st Tues. in Dec. – following Fri., 2nd full week following the 1st Tues. in Dec. – following Fri., 3rd full week following 1st Tues. in Dec. – following Sat.
(ii) In years when there is a fifth Tues. in Oct., additional deer hunts may be scheduled on Fri. and Sat. during Oct. and Nov.
(iii) In years when there is a fifth Mon. in Dec., additional hunts may be scheduled that week.
(f) Small Game
(i) Thanksgiving Day – Mar. 1.
(ii) Game Zone 4 bag limits.
(g) Hog Hunts with Dogs
(i) 2nd full week in Mar.

11. Lynchburg Savanna Heritage Preserve WMA

(a) Small Game Only (no fox squirrels)
(i) Game Zone 4 seasons and bag limits

12. Hickory Top WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.
(b) Archery Deer Hunts
(i) Sept. 15 - Oct. 31
(c) Primitive Weapons Deer Hunts
(i) Nov. 1 – Jan. 1
(d) Hog Hunts with Dogs
(i) 2nd full week in Mar.

(e) Small Game (no fox squirrels)
(i) Game Zone 4 seasons and bag limits apply.

13. Oak Lea WMA

(a) Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving the WMA.
(b) Archery Deer Hunts
(i) Sept. 15 - 30
(c) Still Gun Hunts for Deer
(i) Hunters selected by drawing
(ii) Total 20 deer per hunt party, either-sex
(d) Small Game (except quail)
(i) Jan. 2 – Mar. 1 except no small game hunting during scheduled quail hunts
(ii) Game Zone 4 bag limits
(e) Quail
(i) Designated dates within Game Zone 5 season
(ii) Game Zone 4 bag limit

14. Santee Dam WMA

(a) Archery Deer Hunts
(i) Sept. 15 - Oct. 31
(b) Primitive Weapons Deer Hunts
(i) Nov. 1 – Jan. 1
(c) Hog Hunts with Dogs
(i) 2nd full week in March
(d) Small Game (no fox squirrels)
(i) Jan. 2 – Mar. 1
(ii) Game Zone 4 bag limits

15. Wee Tee WMA

(a) Archery Deer Hunts
(i) Sept. 15 – Oct. 10
(b) Still Gun Hunts for Deer
(i) Oct. 11 – Jan. 1
(c) Still Hog Hunts
(i) First full week in March
(d) Hog Hunts with Dogs
(i) 2nd full week in March
(e) Raccoon and Opossum
(i) Game Zone 4 seasons and bag limits
(f) Other Small Game (no fox squirrels, no fox hunting)
(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 4 bag limits
(iii) Dogs allowed during small game gun season only
(g) Bear Season
(i) October 17 – October 30

16. Santee Delta WMA

(a) Archery Deer Hunts (impoundments only)
(i) Sept. 15 - Oct. 10
(b) Hog Hunts with Dogs
(i) 2nd full week in Mar. (impoundments only)

17. Samworth WMA

(a) Archery Deer Hunts (impoundments only)
(i) Sept. 15 - Oct. 10
(b) Hog Hunts with Dogs
(i) 2nd full week of Mar. (impoundments only)

18. Cartwheel Bay Heritage Preserve WMA
(a) Archery Deer Hunts
(i) Sept. 15 – Jan. 1
(b) Small Game (no fox squirrels)
(i) Thanksgiving Day - Mar. 1
(ii) Game Zone 4 bag limits
(c) Bear Season
(i) October 17 – October 30

19. Lewis Ocean Bay Heritage Preserve WMA
(a) All deer hunters must sign in and sign out daily and record harvest at the kiosk.
(b) Archery Deer Hunts
(i) Sept. 15 - Oct. 10
(c) Primitive Weapons Deer Hunts
(i) Oct. 11 - Oct. 20
(d) Still Gun Hunts for Deer
(i) Oct. 21 - Jan. 1.
(e) Small Game (no fox squirrels).
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 4 bag limits
(f) Bear Season
(i) October 17 – October 30

20. Waccamaw River Heritage Preserve WMA
(a) Archery Deer Hunts
(i) Sept. 15 - Oct. 10
(b) Primitive Weapons Deer Hunts
(i) Oct. 11 - Oct. 20
(c) Still Gun Hunts for Deer
(i) Oct. 21 - Jan. 1
(d) Still Hog Hunts
(i) First full week in March
(e) Hog Hunts with Dogs
(i) 2nd full week in Mar.
(f) Small Game (no fox squirrels)
(i) Thanksgiving Day – Mar. 1
(ii) Game Zone 4 bag limits
(g) Bear Season
(i) October 17 – October 30

21. Liberty Hill WMA
(a) Designated as a Quality Deer Management Area
(b) Archery Hunts for Deer
(i) Sept. 15 - Sept. 30
(c) Primitive Weapons for Deer
(i) Oct. 1 - Oct. 10
(d) Still Gun Hunts for Deer
(i) Oct. 11 - Jan. 1
(e) Small Game (No fox squirrels)
(i) Zone 4 seasons and bag limits apply.

GENERAL REGULATIONS

2.1 Except as provided in these regulations, no person may hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) as Wildlife Management Area (WMA) lands.

2.2 Entry onto WMA land is done wholly and completely at the risk of the individual. Neither the landowners nor the State of South Carolina nor the South Carolina Department of Natural Resources accepts any responsibility for acts, omissions, or activities or conditions on these lands which cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 No person may hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license, a valid WMA permit, and other applicable federal or state permits, stamps or licenses.

2.5 No Sunday hunting is permitted on any WMA lands.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, "bait" or "baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. "Baited area" means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands, construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands are permitted provided they are not permanently affixed or embedded in the tree. All stands and temporary climbing devices must be removed by the end of the deer hunting season.

2.8 On WMA lands, any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older). Sight and voice contact must be maintained.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special hunts on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department. This regulation does not apply on designated Public Bird Dog Training Areas where pen raised quail and pigeons may be released.

2.11 While participating in a hunt on WMAs, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during the designated statewide youth deer hunt day, only still hunting is allowed. The limit is two deer total to include no more than one antlerless deer.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

2.14 On WMA lands, hunting armadillos and coyotes at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours with no bag limit. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

2.15 On WMA lands during special designated hunts, a WMA may be closed to other public access.

2.16 Still hunting for hogs is permitted on WMAs during any open season for game during daylight hours with only the weapons allowed during the hunting season in progress unless otherwise prohibited. No hog may be transported alive from a WMA. Hogs may not be hunted at night. There is no bag limit on hogs. Hunters must wear a hat, coat, or vest of solid international orange while hog hunting. Buckshot is prohibited. During hog hunts with dogs, no still or stalk hunting is allowed and only handguns are permitted. No hog hunting with dogs is allowed except during special designated seasons.

2.17 Unless otherwise specified, small game hunting seasons and bag limits on WMA lands are the same as Game Zone seasons and bag limits except no hunting before Sept. 1 or after Mar. 1. The season for hunting beavers on WMA lands shall be October 1 through March 1.

WEAPONS

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow, crossbow or hand gun except that specific weapons may be prohibited on certain hunts. Blow guns, dart guns, drugged arrows or arrows with exploding tips are not permitted. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.).

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

3.3 On WMA lands big game hunters are not allowed to use armor-piercing, tracer, incendiary, or full metal jacket bullets or .22 or smaller rimfire. Buckshot is prohibited during still gun hunts for deer on WMA lands in Game Zones 3 & 4.

3.4 On WMAs all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle, rimfire rifle or pistol with a shell in the chamber or magazine, or a muzzleloader with a cap on the nipple or a flintlock with powder in the flash pan is considered loaded.

3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day.

4.2 Unless otherwise specified by the Department, only antlered deer may be taken on all WMA lands. Deer with visible antlers of less than two (2) inches above the hairline are considered antlerless deer and must be tagged with an antlerless deer tag issued by the Department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection.

4.3 On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons.

4.4 Date Specific Antlerless Deer Tag Dates, Individual Antlerless Deer Tags, and Deer Limits on WMAs:

(a) Game Zone 1: The last three Sat. in Nov.

(b) Game Zones 2 – 4: The first three Saturdays in Oct., the last three Saturdays in November, the 2nd Saturday in December, and Jan. 1.

(c) In all Game Zones, beginning September 15 during archery only or primitive weapons only seasons, hunters who harvest a deer using archery equipment only may choose to use any of the Date-Specific Antlerless Deer Tags issued to them to tag an antlerless deer taken provided that the archery notation and actual date of kill is validated on the tag as prescribed by SCDNR. Archery hunters may also use Individual Antlerless Deer Tags issued to them to tag an antlerless deer taken during any archery-only or primitive weapons only season provided that the tag is validated as prescribed by SCDNR. Game Zone and WMA limits apply.

(d) On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day prescribed by the Department, participants may take two deer total, either sex.

4.5 For all WMAs combined statewide, the limit for all seasons and methods combined is two deer per day, 5 deer total, no more than two bucks, unless otherwise specified. For WMAs in Game Zone 1, the limit for antlerless deer for all seasons and methods combined is 4. Antlerless deer limit is two deer per day, unless otherwise specified.

4.6 Individual Antlerless Deer Tags are valid in Game Zone 1 beginning Oct. 1 and in Game Zones 2, 3 & 4 beginning Sept. 15. For all WMAs combined, a maximum of 2 individual antlerless deer tags may be used during primitive weapons or still gun deer seasons in all Game Zones except only one individual antlerless deer tag

may used in Game Zone 1. Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

4.7 All deer must be tagged immediately after harvest as prescribed by the Department and before being moved from the point of kill and the tag must be validated as prescribed by the Department. A valid tag must remain attached until the deer or carcass is quartered or received by a processor.

4.8 For WMAs designated as Quality Deer Management Areas, all antlered bucks must have a minimum 4 points on one side or a minimum 12-inch inside antler spread except during designated special youth hunts. Inside antler spread is measured at a right angle to centerline of the skull at its widest point between the main beams.

4.9 On WMA lands, deer, hogs, or bear may not be hunted with a firearm within 300 yards of a residence.

DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 Dogs may be trained for quail, rabbit and squirrel hunting from Sept. 1 - 14 (no guns), except on designated Public Bird Dog Training Areas where bird dog training is allowed from September 15 to March 15 (Sundays excluded).

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 Unless otherwise specified, deer hunting with dogs on WMA lands is prohibited. The Department may permit deer hunting with dogs on WMA lands not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle unless permitted by the Department.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 A person may not obstruct or cause to be obstructed travel routes on WMA lands.

VISIBLE COLOR CLOTHING

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange. Archery hunters during archery only deer seasons and hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

TRAPPING

9.1 Trapping on WMA lands is not permitted.

WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only portable blinds which are removed at the conclusion of the hunt or temporary blinds of native vegetation may be used. Temporary blinds once vacated may be used by other hunters.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category I Designated Waterfowl Area during scheduled waterfowl hunts.

10.6 The Bordeaux Work Center Area is closed to hunting except for special hunts as designated by the SCDNR.

10.7 Impoundments on Bear Island, Bonneau Ferry, Broad River, Donnelley, Samworth, Sandy Beach, Santee Coastal Reserve, Santee Cooper, Wateree River, and Santee Delta WMAs are closed to all public access during the period Nov. 1 - Feb. 8 except during special hunts designated by the Department. All public access during the period Feb. 9 - Oct. 31 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 – Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.8 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.9 On Hatchery WMA, hunters must leave the area by 1 PM, except on the last Saturday of the waterfowl season when hunters may hunt until sunset. Each hunter is limited to twenty-five Federally-approved nontoxic shot shells per hunt. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period Nov. 15 - Jan. 31. No fishing allowed during scheduled waterfowl hunts.

10.10 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed.

10.11 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, Wateree River Heritage Preserve and portions of Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.12 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Santee Cooper, portions of Donnelley, and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

1. Biedler Impoundment
   (a) Sat. AM only during regular season
   (b) State bag limits
2. Bear Island
   (a) Hunters selected by drawing during regular season
   (b) State bag limits
3. Beaverdam

(a) Hunters selected by drawing during regular season
(b) State bag limits
4. Bonneau Ferry
(a) Hunters selected by drawing during regular season
(b) State bag limits
5. Broad River
(a) Hunters selected by drawing during regular season
(b) State bag limits
6 Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
(a) Wed. and Sat. AM only during regular season
(b) State bag limits
7. Little Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
(a) Wed. and Sat. AM only during regular season
(b) State bag limits
8. Clemson
(a) Hunters selected by drawing during regular season
(b) State bag limits
9. Ditch Pond

(a) Wed. AM only during regular season
(b) State bag limits
10. Donnelley
(a) Category I Area - Hunters selected by drawing during regular season
(b) Category II Area – Wed. AM only during specified dates.
(c) State bag limits
11. Dunaway
(a) Sat. AM only during regular season
(b) State bag limits
12. Duncan Creek
(a) Sat. AM only during regular season
(b) State bag limits
13. Dungannon
(a) Wed. AM only during regular season
(b) State bag limits
(c) No hunting from the Boardwalk
14. Enoree River
(a) Sat. AM only during regular season
(b) State bag limits
15. Hatchery
(a) Sat. AM only and until sunset on the last Sat. of the regular waterfowl season
(b) State bag limits
16. Hickory Top
(a) Mon. through Sat. during regular season
(b) State bag limits
17. Hickory Top Greentree Reservoir
(a) Sat. AM only during regular season
(b) State bag limits
(c) No hunting from roads and dikes
18. Lake Cunningham
(a) Wed. AM only during the regular season
(b) State bag limits
19. Lancaster Reservoir
(a) Mon. and Fri. AM only during the regular season
(b) State bag limits

20. Marsh
    (a) Fri. and Sat. AM only during regular season
    (b) State bag limits
21. Monticello Reservoir
    (a) Mon. through Sat. AM only during regular season
    (b) State bag limits
22. Moultrie
    (a) Mon. through Sat. during regular season.
    (b) State bag limits
23. Parr Reservoir
    (a) Mon. through Sat. during regular season.
    (b) State bag limits
24. Potato Creek Hatchery
    (a) Fri. and Sat. only during regular season
    (b) State bag limits
25. Russell Creek
    (a) Wed. and Sat. AM only during regular season
    (b) State bag limits

26. Sampson Island Unit (Bear Island)
    (a) Thurs. and Sat. AM only during the regular season
    (b) State bag limits
27. Samworth
    (a) Hunters selected by drawing during regular season
    (b) State bag limits
28. Sandy Beach
    (a) Hunters selected by drawing during regular season
    (b) State bag limits
29. Santee Coastal Reserve
    (a) Hunters selected by drawing during regular season
    (b) State bag limits
30. Santee Cooper
    (a) Sat. AM only during regular season
    (b) State bag limits
31. Santee-Delta
    (a) Hunters selected by drawing during regular season
    (b) State bag limits
32. Tibwin
    (a) Special hunts by drawing during regular season
    (b) State bag limits
33. Turtle Island
    (a) Fri. and Sat. AM only during regular season
    (b) State bag limits
34. Tyger River
    (a) Sat. AM only during regular season
    (b) State bag limits
35. Wee Tee
    (a) Fri. and Sat. AM only during regular season
    (b) State bag limits
36. Woodbury
    (a) Fri. and Sat. AM only during regular season
    (b) State bag limits
37. Great Pee Dee
    (a) Sat. AM only during regular season

(b) State bag limits
38. Little Pee Dee River Complex
(a) Fri. and Sat. AM only during regular season
(b) State bag limits
39. Waccamaw River HP
(a) Fri. and Sat. AM only during regular season
(b) State bag limits
40. 40-acre Rock
(a) Sat. AM only during regular season
(b) State bag limits
41. Wateree River HP
(a) Hunters selected by drawing during regular season
(b) State bag limits

10.13 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area (WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit. A WMA permit is required for waterfowl hunting in the Hickory Top Greentree Reservoir.

10.14 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

10.15 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.16 On all State-owned, US Forest Service and other Federally-owned Category I and II Waterfowl Management Areas each hunter is limited to 25 Federally-approved non-toxic shells per hunt.

10.17 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.18 Woodbury Waterfowl Management Area includes all SCDNR-owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

10.19 Donnelley Wildlife Management Area Category II Waterfowl Area is open Wednesday mornings only during the November thru January regular waterfowl season. The Category II area is defined as all wetlands east of Donnelley Drive and Blocker Run Road except those areas south of Blocker Run Road between Stocks Creek Road and the intersection of Mary's Island Road and the property boundary. No trailered boats and no electric or gas motors allowed. No entry before 5:00 AM and all users must sign in and sign out at designated check stations. No hunting is allowed from the dikes.

AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department-owned Wildlife Management Areas without written permission of the Department.

PUBLIC BIRD DOG TRAINING AREAS

12.1 The Department may establish Public Bird Dog Training Areas on designated portions of the Cliff Pitts WMA in Laurens County, the Campbell's Crossroads and Angelus Tract WMAs in Chesterfield County, the Landsford Canal WMA in Chester County, and the Edisto River WMA in Dorchester County. A valid hunting license and WMA permit is required to train bird dogs on these lands.

12.2 It shall be unlawful to take game by any means while training bird dogs, except during the lawful open seasons for such game; provided, however, that pen raised quail or pigeons may be taken at any time for training bird dogs. The dog trainer must possess proof of purchase of pen raised quail.

12.3 It shall be unlawful for any person to have in his or her possession any firearms or other equipment for taking game while training bird dogs, provided that handguns with blank ammunition or shot cartridges may be used for training bird dogs, and shotguns with number eight shot or smaller shot may be used while training bird dogs using pen raised quail and pigeons.

12.4 All participants in bird dog training must wear either a hat, coat, or vest of solid visible international orange.

SUBARTICLE 3

OTHER BIG GAME

123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 3 turkeys statewide per person, 2 per day, gobblers (male turkeys) only, unless otherwise specified. Total statewide limit includes turkeys harvested on Wildlife Management Areas (WMAs). Small

unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and bag limits for Wildlife Management Area lands are as follows:

A. Game Zone 1

1. Other WMAs
   (a) Apr. 1 – May 5
   (b) Bag limit 3

B. Game Zone 2

1. Other WMAs
   (a) Apr. 1 – May 5
   (b) Bag limit 3
2. Keowee WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Shotguns only –north of Hwy 123 and west of the Keowee Arm of Lake Hartwell and west of Hwy 291. Archery only on other sections.
3. Draper WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
4. Belfast WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Hunters by drawing only
5. Worth Mountain WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
6. McCalla WMA
   (a) April 1 – May 5
   (b) Bag Limit 2
7. Fants Grove WMA
   (a) April 1 - May 5
   (b) Bag Limit 2

8. Liberty Hill WMA
   (a) April 1 - May 5
   (b) Bag Limit 2
9. Delta South WMA
   (a) Apr. 1 – May 5
   (b) Hunters by drawing only
10. Forty Acre Rock HP WMA
   (a) April 1 - May 5
   (b) Bag Limit 2

C. Game Zone 3

1. Other WMAs
   (a) Apr. 1 – May 5
   (b) Bag limit 3
2. Crackerneck WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Fri. and Sat. only
   (d) Sign in and out at the gate required.
   (e) Main gate opens at 4:30 am and closes at 1:00 pm.
3. Aiken Gopher Tortoise HP WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
4. Francis Marion National Forest
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Tibwin Special Use Area
      (1) Apr. 1 – May 5
      (2) Bag limit 2
      (3) Special hunts for youth or mobility impaired hunters as published by SCDNR.
5. Moultrie
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
   (d) Bluefield WMA
      (1) Apr. 1 – May 5
      (2) Bag limit 2
      (3) Adult/Youth only
   (e) Hall WMA
      (1) Apr. 1 – May 5
      (2) Bag limit 2
6. Santee Cooper WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Hunting by public draw only
7. Webb, Palachucola and Hamilton Ridge WMAs
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.
8. Donnelley WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Hunting by public draw only

9. Bonneau Ferry WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Hunting by public draw only
   (d) Closed to public access during hunts.
10. Santee Coastal Reserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Youth or mobility impaired hunting by draw only.
11. Edisto River WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
12. Tillman Sand Ridge Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only

13. Victoria Bluff Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
14. Botany Bay Plantation WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Youth hunting by draw only.
15. Wateree River HP WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Hunting by public draw only

D. Game Zone 4

1. Other WMAs
   (a) Apr. 1 – May 5
   (b) Bag limit 3
2. Marsh WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
   (d) Sign in and out at the kiosk required.
3. Sand Hills State Forest WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
4. McBee WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
5. Little Pee Dee Complex WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
6. Pee Dee Station Site WMA
   (a) Apr. 1 – May 5

(b) Bag limit 2
(c) Thurs through Sat. only
(d) All hunters must sign in and sign out at kiosk.

7. Woodbury WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
   (d) All hunters must sign in and sign out at kiosk.
8. Great Pee Dee Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
   (d) All hunters must sign in and sign out at kiosk.
9. Longleaf Pine Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
10. Manchester State Forest WMA
   (a) Apr. 1 – May 5

   (b) Bag limit 2
   (c) Thurs through Sat. only
11. Hickory Top WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
12. Oak Lea WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat.
13. Santee Dam WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
14. Wee Tee WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
15. Cartwheel Bay Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
16. Lewis Ocean Bay Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
17. Waccamaw River Heritage Preserve WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 2
   (c) Thurs through Sat. only
18. Samworth WMA
   (a) Apr. 1 – May 5
   (b) Bag limit 1
   (c) Youth hunting by draw only.
19. Liberty Hill WMA
   (a) April 1 - May 5
   (b) Bag Limit 2

E. Statewide Turkey Hunting Regulations and Youth Turkey Hunting Day on WMAs

1. The statewide youth turkey hunting day on designated WMA lands shall be the Saturday immediately preceding April 1

(a) The daily bag limit during the statewide youth turkey hunting day on WMAs is 2.

(b) A person less than 18 years of age is considered a youth turkey hunter.

(c) Only includes WMAs designated by the Department.

2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

(a) During the spring turkey hunting season, only turkey gobblers (male birds) may be taken.

(b) Shotguns, muzzleloader shotguns, or archery equipment are permitted. All other weapons and methods of taking are prohibited including rifles, pistols, buckshot and slugs.

(c) Turkeys may not be hunted with dogs.

(d) Live decoys are prohibited.

(e) A tag issued by the Department must be placed around a harvested bird's leg before the bird is moved from the point of kill and the tag must be validated by the hunter as prescribed by the Department. A valid tag must remain on the carcass until it is processed (cut up).

(f) On all WMA lands, it is prohibited to hunt or stalk wild turkeys while holding or using for hunter concealment any of the following items: a tail fan, a partial or full decoy with a tail fan, or a tail fan mounted to a firearm. Tail fans include those made of real or synthetic feathers or an image or likeness of a tail fan applied to any material.

123-52. Date Specific Antlerless Deer Tags, Individual Antlerless Deer Tags, Antlerless Deer Limits for Private Lands in Game Zones 1-4, and Youth Deer Hunting Day.

1. Game Zone 1: The last three Saturdays in November.

2. Game Zones 2 - 4: The first three Saturdays in October; the last three Saturdays in November; the second Saturday in December; January 1.

3. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day prescribed by the Department, participants may take 2 deer total, either sex. The Statewide Youth Deer Hunt Day on private land and designated Wildlife Management Areas shall be the Saturday immediately following January 1.

4. In all Game Zones, beginning September 15 during archery only or primitive weapons seasons, hunters who harvest a deer using archery equipment only may choose to use any of the Date-Specific Antlerless Deer Tags issued to them to tag an antlerless deer provided that the archery notation and actual date of kill is validated on the tag as prescribed by SCDNR. Archery hunters may also use Individual Antlerless Deer Tags issued to them to tag an antlerless deer taken during any archery-only or primitive weapons only season provided that the tag is validated as prescribed by SCDNR. Game Zone Limits apply.

5. Individual Antlerless Deer Tags: Only 1 Individual Antlerless Deer Tag may be used in Game Zone 1. Individual Antlerless Deer Tags are valid in Game Zones 2 - 4 beginning September 15 and in Game Zone 1 beginning October 1. Individual Antlerless Deer Tags are not valid on properties enrolled in the Deer Quota Program. Individual Antlerless Deer Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

6. Antlerless Deer Limits: Game Zone 1 - Four (4) total for all seasons and weapons combined, no more than 2 per day. Game Zone 2 - Five (5) total for all seasons and weapons combined, no more than 2 per day. Game Zones 3 - 4, No more than 2 per day. Game Zone season and daily limits do not apply on properties enrolled in the Deer Quota Program.

7. All antlerless deer must be tagged as prescribed by the Department immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the Department. A valid tag must remain attached until the deer or carcass is quartered or received by a processor.

123-53. Bear Hunting Rules and Seasons.

1. In Game Zone 4, the open season for taking bear in Georgetown County, Horry County, Marion County and Williamsburg County on private and WMA land for still gun hunts is October 17 – October 30. Bear hunting is allowed on the following WMAs in those counties: Cartwheel Bay Heritage Preserve WMA, Lewis Ocean Bay Heritage Preserve WMA, Little Pee Dee River Heritage Preserve Complex, Waccamaw River Heritage Preserve WMA, and Wee Tee WMA.

2. In Game Zone 2 the open season for taking bear on private land in Spartanburg County and those portions of Oconee, Pickens, and Greenville counties south of Game Zone 1 for still gun hunts is October 17 – October 30.

3. Legal weapons for bear hunting on private lands include archery equipment, muzzleloaders (.36 caliber or greater), centerfire rifles, centerfire handguns and shotguns with slugs or buckshot.

4. On WMA lands, weapons used to hunt bear are limited to the weapons that are allowed for the current open season for deer on each WMA.

5. Harvested bear must be reported to SCDNR by midnight of the day of harvest as prescribed by the Department.

6. All harvested bears must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR.

7. The harvest quota for areas open in Game Zone 4 is 30 bears for all counties and WMAs combined. The harvest quota for areas open in Game Zone 2 is 20 bears for all counties combined. If the bear quota is met in a Game Zone prior to October 30, the season will close in that Game Zone 24 hours following a season closure notice. Hunters are responsible for monitoring the season status as prescribed by the Department.

123-54. Chronic Wasting Disease Prevention, Unauthorized Cervid Parts, Use and Possession of Excretions and Carcass Importation Regulations.

Section 1. Definitions.

1. "Cervid" means a member of the family Cervidae.

2. "Chronic wasting disease (CWD)" means a fatal neurological disease of cervids belonging to a group of diseases called transmissible spongiform encephalopathies.

3. "Clean" means having no meat or other tissues attached to the carcass part.

4. "Infected state" means a state of the United States or province of Canada that has a known case of chronic wasting disease.

5. "Importation" means the transportation of a cervid carcass or carcass part into this State.

6. "Whole" means the entire carcass whether eviscerated or not, prior to the carcass being processed.

Section 2. Prohibition on the Importation and Possession of a Whole Cervid Carcass or Carcass Part from an Infected State.

1. No person may import or possess a whole cervid carcass or carcass part from an infected state unless the carcass or part has been converted as specified in subsections (2) or (3) of this section.

2. A person may import a cervid carcass or a carcass part from an infected state if:

(a) Quarters or other portions of meat have no part of the spinal column or head attached; or

(b) Meat has been boned out.

3. A person may import or possess the following inedible parts of a cervid carcass from an infected state:

(a) Antlers;

(b) Antlers that are attached to a clean skull plate;

(c) A clean skull;

(d) Clean upper canine teeth;

(e) A finished taxidermy product; or

(f) The hide.

Section 3. Prohibition on the Use of Natural Cervid Excretions

1. No person shall for the purposes of taking or attempting to take, attracting, or scouting any wild animal in South Carolina possess or use any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid. This does not prohibit the use of synthetic products or substances collected by a hunter from deer legally harvested in South Carolina.

Section 4. Penalty.

The penalty for a violation of this regulation shall be as provided in Section 50-1-130.

Fiscal Impact Statement:

The amendment of Regulations 123-40, 123-51, 123-52, 123-53, and 123-54 will result in increased public hunting and fishing opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Areas are occasionally removed due to cancellation of leases by cooperating landowners. Management objectives for specific properties are continually evaluated for needed changes. Contractual agreements with the landowners provide guidelines for the use and management of the properties. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Document No. 4839
DEPARTMENT OF TRANSPORTATION
CHAPTER 63
Statutory Authority: 1976 Code Section 57-3-110(8)

63-10. Transportation Project Prioritization.

Synopsis:

South Carolina Department of Transportation (SCDOT) proposes to amend Regulation 63-10 regarding SCDOT's Transportation Project Prioritization to combine both state funded and federally funded projects in one program document: the "State Transportation Improvement Program" ("STIP"). This change would eliminate the need for a separate "State Program" document. Therefore, the amendments also propose to eliminate references to a separate "State Program."

A Notice of Drafting for the proposed amendments to Regulation 63-10 was published in the *State Register* on August 24, 2018. The proposed regulations were published in the *State Register* on October 26, 2018. No comments were received or hearing requested. The SCDOT Commission approved the final amendments on December 6, 2018.

Instructions:

Print Regulation 63-10 as shown below.

Text:

63-10. Transportation Project Prioritization.

A. Definition of Terms.

1. "Commission" means the governing board of the Department of Transportation.

2. "Council of Government ("COG")" means the entity organized pursuant to S.C. Code Section 6-7-110 and designated to carry on the continuing, comprehensive, cooperative transportation planning process for a rural area.

3. "Department" or "SCDOT" means the South Carolina Department of Transportation.

4. "Metropolitan Planning Organization ("MPO")" means the entity designated to carry on the continuing, comprehensive, cooperative transportation planning process for an urbanized area in accordance with 23 USCA 134 and applicable regulations.

5. "Project priority lists" means priority ranking of projects within program categories proposed for inclusion in the State Transportation Improvement Program ("STIP"). The priority lists shall be established by the Commission based upon engineering recommendations and advice, application of the relevant criteria set out in S.C. Code Section 57-1-370 (B)(8), and any other criteria that supports the purpose and need for the projects in each program category.

6. "Secretary" means the Secretary of Transportation of the Department.

7. "State Highway Engineer" means the deputy director of the division of engineering of the Department.

8. "State Highway System" means the system of roads that the Department is responsible for maintaining pursuant to Section 57-5-10 of the S. C. Code of Laws, 1976, as amended.

9. "Statewide Multimodal Transportation Long Range Plan" ("Multimodal Plan") is a long-range statewide transportation plan with a minimum 20-year forecast period at the time of adoption that provides for the development and implementation of the multimodal transportation system for the State as required by Section 57-1-370(A). It shall be consistent with federal planning requirements. It includes by reference all applicable plans, policies or reports relevant to the development of the plan. Projects from the Multimodal Plan may be ultimately included in the STIP.

10. "Statewide Transportation Improvement Program ("STIP")" means a comprehensive prioritized program of state and federally funded transportation projects or phases of projects and other regionally significant projects. The STIP must cover a period of at least four years and must be updated at least once every four years. The STIP must be consistent with the Multimodal Plan and MPO Transportation Improvement Programs ("TIPs"). All federally funded projects and/or categories of projects are required to be included in the STIP in order to be eligible for federal funds pursuant to Title 23 and Title 49, Chapter 53 of the United States Code.

11. Transportation Asset Management Plan ("TAMP") is a performance and risked based decision making tool designed to assist the Department in analyzing long-term system performance and condition to guide investment decisions. The TAMP is based on a 10-year horizon. It includes objectives and performance measures for preservation and improvement of the State Highway System. It is used to establish fiscally constrained performance goals for transportation infrastructure assets such as pavements and bridges.

B. The Statewide Multimodal Transportation Long Range Plan ("Multimodal Plan").

1. The Multimodal Plan will be updated approximately every five years, or more frequently if deemed appropriate by the Commission. The plan will be developed in accordance with all applicable federal guidelines and regulations, including a minimum 20-year forecast period estimating future transportation needs and projected costs. It will include goals and objectives for long-term strategies for addressing transportation needs across the State.

2. The Multimodal Plan will be subdivided into at least the following categories:

a. bridges;
b. interstates;
c. pavements;
d. mass transit;
e. statewide significant corridors;
f. passenger and high speed rail;
g. rail corridor preservation;
h. non-motorized transportation modes;
i. State Strategic Highway Safety Plan;
j. MPO long-range plans;
k. COG long-range plans; and
l. statewide plan for 20-year routine maintenance needs.

3. The Multimodal Plan will include a public involvement plan providing for multiple opportunities for input by an advisory task force or committee, COG or MPO, transportation user groups and the general public. A copy of the draft plan will be made available to the public for review and comment at each engineering district office and COG office.

4. The Secretary of Transportation will present the Multimodal Plan to the Commission for approval along with all comments received. After approval by the Commission, the final Multimodal Plan will be published on the SCDOT website. The Multimodal Plan may be revised from time to time as permitted by federal law or regulation.

C. Project Priority Lists.

1. The Commission shall establish project priority lists for each program category proposed to be included in the STIP. The Secretary shall present a recommendation for Commission approval using a detailed analysis and evaluation applying the specific criteria applicable to each program category. Local option sales tax projects and projects funded solely by C-Funds are excluded from the project prioritization process established by S.C. Code Section 57-1-370(B)(8).

2. The project priority lists provide information to the Commission and the public. The order in which projects appear in the priority lists is the order in which those projects will be placed in the STIP unless the Commission provides a written justification based upon circumstances that warrant a deviation from the established order on the lists. The circumstances upon which the Commission may deviate from the lists are significant financial or engineering considerations, delayed permitting, force majeure, pending legal actions directly related to the proposed project that is bypassed, federal law or regulation, or economic growth.

3. The State Highway Engineer shall develop a ranking process for applying uniform and objective criteria applicable to each program category. The ranking processes will be described in engineering directives issued by the State Highway Engineer. The ranking processes shall list the criteria to be considered in each program category, and include a methodology for applying the criteria and the weight to be accorded each criterion where applicable. The criteria shall include any criteria listed in S.C. Code Section 57-1-370 (B)(8) which is relevant to the program category and any other criteria relevant to the program category.

4. In program categories where evaluating environmental impacts is an approved criterion for prioritization, environmental impacts to be evaluated should consider the potential adverse effects of the project on natural resources.

5. Alternative transportation solutions will be considered as a part of the environmental review process rather than during the project prioritization process.

6. Local land use plans will be considered as part of the long range planning process rather than during the project prioritization process.

7. In program categories where evaluating potential for economic development is an approved criterion for prioritization, the evaluation of potential economic development will include a consultation with the Department of Commerce as well as the use of transportation economic development models.

8. Financial viability, including a life cycle analysis of estimated maintenance and repair costs over the expected life of the project, will be considered in the development of the TAMP rather than during the project prioritization process.

D. Statewide Transportation Improvement Program.

1. A draft of a new STIP or any revision to the STIP to adjust category or project information relating to cost, schedule, scope, and priority will be prepared under the direction of the Secretary of Transportation and presented to the Commission for consideration and approval. The draft STIP will include fiscally constrained project cost and schedule information for the reporting period and will be based on estimated federal-aid and state funding levels by program. The draft STIP will be made available to the public for review and comment at each SCDOT district office and at the COG offices.

2. The draft STIP will be presented to the Commission for review along with any relevant project priority rankings, the recommendations of local transportation technical committees, and all public comments received. The Secretary may make recommendations to the Commission regarding any funding changes to the annual allocation plan resulting from federal or state legislation.

3. The STIP adopted and approved by the Commission will reflect Commission decisions on the overall funding distribution for the federal-aid and state funded programs during the years covered by the STIP. After approval by the Commission the STIP will be submitted to the Federal Highway Administration and the Federal Transit Administration for final approval and published in the SCDOT website.

Fiscal Impact Statement:

SCDOT does not anticipate additional costs to the State or its political subdivisions to comply with the proposed amendments to the regulations.

Statement of Rationale:

The purpose of the proposed amendments is to redefine the State Transportation Improvement Program ("STIP") to include state-funded projects as well as federally funded projects. Currently the regulations provide for two different program documents: (1) the STIP, containing federally funded projects, and (2) the State Program, containing state funded projects. The amendments will redefine the STIP as a "comprehensive" prioritized program of projects including both state and federally funded projects.

Document No. 4841
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-56-30

61-79. Hazardous Waste Management Regulations.

Synopsis:

The Department of Health and Environmental Control ("Department") amends R.61-79, Hazardous Waste Management Regulations, to adopt the Environmental Protection Agency's ("EPA") Hazardous Waste Generator Improvements Rule published November 28, 2016, at 81 FR 85732-85829. The amendments support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

The amendments reorganize the hazardous waste generator regulations to improve their usability by the regulated community, provide a better understanding of how the Resource Conservation and Recovery Act ("RCRA") hazardous waste generator regulatory program works, address gaps in existing regulations to strengthen environmental protections, provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner, and make technical corrections to address inadvertent errors and remove obsolete references to programs that no longer exist.

The EPA periodically promulgates regulations that are either mandatory for authorized state programs to adopt or maintain program equivalency or are optional for states because the changes are less stringent than the current federal regulations. While the majority of the EPA's Hazardous Waste Generator Improvements Rule is equivalent to current state regulations and optional for state adoption, several provisions are more stringent and must be adopted by the Department to maintain federal program authorization. Due to the interrelated nature of the equivalent provisions and the more stringent provisions, the Department has adopted the rule in a single drafting that required General Assembly review.

The Department had a Notice of Drafting published in the April 27, 2018, *South Carolina State Register*.

Section-by-Section Discussion of Amendment:

260.3. Revise introductory phrase to read, "As used in R.61-79.260 through R.61-79.273."

260.10. Definitions. Add, in alphabetical order, the following new definitions: "Acute hazardous waste," "Central accumulation area," "Large quantity generator," "Non-acute hazardous waste," and "Very small

quantity generator." Revise definition for "Small quantity generator." Remove definition for "Conditionally exempt small quantity generators."

260.11. Revise section heading to read, "Incorporation by reference."

260.11(a)(10). Revise item to read, "'Flammable and Combustible Liquids Code' (NFPA 30), 1977 or 1981, IBR approved for R.61-79.262.16(b), 264.198(b), and 265.198(b)."

261.1(a)(1). Revise item to replace "conditionally exempt" with "very."

261.4(a)(7). Revise item to replace ", unless it is" with "provided it is not."

261.5. Remove and reserve section.

261.6(c)(2)(iv). Add new item (2)(iv) to adopt language that includes section 265.75 of this chapter (quarterly report).

261.33(e). Revise subsection to remove phrase, "and are subject to the small quantity exclusion defined in section 261.5(e)."

261.33(f). Revise subsection to remove phrase, "and are subject to the small quantity generator exclusion defined in section 261.5(a) and (g)."

262.1. Add new section titled, "Terms used in this part" to adopt language that lists definitions used in this subpart, including "Condition for exemption" and "Independent requirement."

262.10(a). Revise subsection to read, "These regulations establish standards for generators of hazardous waste as defined by R.61-79.260.10."

262.10(a)(1). Add new item (1) to adopt language that describes how a person who generates a hazardous waste as defined by R.61-79.261 is subject to all applicable independent requirements listed in this section.

262.10(a)(1)(i). Add new item (1)(i) and items (1)(i)(A) through (C) to adopt language that lists the independent requirements of a very small quantity generator.

262.10(a)(1)(ii). Add new item (1)(ii) and items (1)(ii)(A) through (I) to adopt language that lists the independent requirements of a small quantity generator.

262.10(a)(1)(iii). Add new item (1)(iii) and items (1)(iii)(A) through (H) to adopt language that lists the independent requirements of a large quantity generator.

262.10(a)(2). Add new item (2) and items (2)(i) through (iii) to adopt language that describes a generator that accumulates hazardous waste on site is a person that stores hazardous waste and must follow the applicable requirements unless one of the exemptions listed is met.

262.10(a)(3). Add new item (3) to adopt language that describes how a generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in section 260.10, or not otherwise authorized to receive the generator's hazardous waste.

262.10(b). Revise subsection to read, "Determining generator category. A generator must use R.61.79.262.13 to determine which provisions of this part are applicable to the generator based on the quantity of hazardous waste generated per calendar month."

262.10(c). Remove and reserve item.

262.10(g). Revise subsection to remove the current language and add new items (1) and (2) to adopt language that describes how compliance and noncompliance of a person who generates hazardous waste is subject to the requirements of the SC Hazardous Waste Management Act and RCRA.

262.10(i) Notes 1 and 2. Remove Note 1 and rename "Note 2" to "Note"."

262.10(l). Revise item for clarification.

262.10(l)(1). Revise item to add "independent" before "requirements" and replace "262.34(c)" with "the regulations in section 262.15."

262.10(l)(2). Revise item to read, "The conditions of section 262.14, for very small quantity generators, except as provided in subpart K."

262.11. Revise section title to add "and recordkeeping" at the end of the title. Revise introductory paragraph to: remove "accurately determine if" and insert make an accurate determination as to whether," and remove "using the following method" and insert "in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps."

262.11(a). Revise subsection to read, "The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change."

262.11(b). Revise subsection to read, "A person must determine whether the solid waste is excluded from regulation under R.61-79.261.4."

262.11(c). Revise subsection to read, "If the waste is not excluded under R.61-79.261.4, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under subpart D of R.61-79.261. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under R.61-79.260.20 and 260.22 to demonstrate to the Department that the waste from this particular site or operation is not a hazardous waste." Remove items 262.11(c)(1) and (2).

262.11(d). Revise subsection to read, "The person then must also determine whether the waste exhibits one or more hazardous characteristics as identified in subpart C of R.61-79.261 by following the procedures in paragraph (d)(1) or (2) of this section, or a combination of both."

262.11(d)(1). Add new item (1) to adopt language that describes how the person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste.

262.11(d)(2). Add new item (2) and items (2)(i) and (ii) to adopt language that describes how the person must test the waste according to the applicable methods set forth in subpart C of R.61-70.261 or according to an equivalent method approved by the Department under R.61-79.260.21 and in accordance with the requirements in 262.11(d)(2)(i) and (ii) when available knowledge is inadequate to make an accurate determination.

262.11(e). Revise subsection to read, "If the waste is determined to be hazardous, the generator must refer to R.61-79.261, 264, 265, 266, 268, and 273 for other possible exclusions or restrictions pertaining to management of the specific waste."

262.11(f). Add new subsection (f) to adopt language that describes the recordkeeping requirements for small and large quantity generators.

262.11(g). Add new subsection (g) to adopt language that describes if the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of R.61-79.261. Prior to shipping the waste off site, the generator also must mark its containers with all applicable EPA hazardous waste numbers (EPA hazardous waste codes) according to section 262.32.

262.12. Revise section to remove current language and adopt language that describes the notification requirements upon generators that was previously in section 262.13.

262.13. Revise section title to read, "Generator category determination." Add new introductory text to adopt language that describes how a generator must determine its generator category based on the amount of hazardous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in R.61-79.260.10.

262.13(a). Revise subsection and add items (1) through (3) to adopt language that describes how the generator category for the month is determined by a generator of either acute or non-acute hazardous waste.

262.13(b). Revise subsection and add items (1) through (4) to adopt language that describes how the generator category for the month is determined by a generator of both acute and non-acute hazardous waste.

Table 1 to 262.13. Add new Table 1 to adopt language to list and describe how the generator categories are determined based on quantity of waste generated in a calendar month.

262.13(c). Revise subsection and add items (1) through (8) to adopt language that describes how the generator must include all hazardous waste that is generated when making the monthly quantity-based determinations required, unless the hazardous waste adheres to one of the listed exemptions.

262.13(d). Revise subsection and add items (1) through (3) to adopt language that describes how a generator does not need to include certain items when determining the quantity of hazardous waste generated in a calendar month.

262.13(e). Revise subsection to read, "Based on the generator category as determined under this section, the generator must meet the applicable independent requirements listed in R.61-79.262.10. A generator's category also determines which of the provisions of R..61-79.262.14, 262.15, 262.16, or 262.17 must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste." Remove items 262.13(e)(1) through (3).

262.13(f). Revise subsection to read, "Mixing hazardous wastes with solid wastes."

262.13(f)(1). Add new item (1) and items (1)(i) through (iii) to adopt language to describe requirements and guidelines for mixing very small quantity generator wastes with solid wastes.

262.13(f)(2). Add new item (2) and items (2)(i) and (ii) to adopt language to describe requirements and guidelines for mixing small quantity generator and large quantity generator wastes with solid wastes.

262.14. Add new section titled "Conditions for exemption for a very small quantity generator."

262.14(a). Add new subsection (a) to adopt language that describes how hazardous waste generated by the very small quantity generator is not subject to the requirements of R.61-79.124, 262 (except sections 262.10-262.14)

through 268, and 270, and the notification requirements of section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements provided that the very small quantity generator meets all the conditions for exemption listed in 262.14(a)(1) through (5).

262.14(a)(1). Add new item (1) to adopt language that describes a condition for exemption for very small quantity generators that in a calendar month generates less than or equal to the amounts specified in the definition of "very small quantity generator" in section 260.10.

262.14(a)(2). Add new item (2) to adopt language that describes a condition for exemption for very small quantity generators that the generator complies with 262.11(a) through (d).

262.14(a)(3). Add new item (3) and items (3)(i) and (ii) to adopt language that describes the condition for exemption for very small quantity generators that if the generator accumulates at any time greater than 1 kilogram (2.2 pounds) of acute hazardous waste or 100 kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in sections 261.31 or 261.33(e), all quantities of that acute hazardous waste are subject to the additional conditions for exemption listed in sections 262.14(a)(3)(i) and 262.14(a)(3)(ii).

262.14(a)(4). Add new item (4) and items (4)(i) through (iii) to adopt language that describes additional conditions for exemption on all quantities of that hazardous waste if the very small quantity generator accumulates at any time 1,000 kilograms (2,200 pounds) or greater of non-acute hazardous waste.

262.14(a)(5). Add new item (5) and items (5)(i) through (viii) to adopt language that describes how a very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in paragraphs (a)(3) and (4) of this section must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is authorized under specific conditions described in items (5)(i) through (viii).

262.14(b). Add new subsection (b) to adopt language that describes the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfills is prohibited.

262.14(c). Add new subsection (c) to adopt language that describes how a very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with subpart L of this part in lieu of sections 262.15, 262.16, and 262.17.

262.15. Add new section titled "Satellite accumulation area regulations for small and large quantity generators."

262.15(a). Add new subsection (a) to adopt language that describes how a generator may accumulate as much as 55 gallons of non-acute hazardous waste and/or either one quart of liquid acute hazardous waste listed in section 261.31 or 261.33(e) or 1 kg (2.2 pounds) of solid acute hazardous waste listed in section 261.31 or 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of R.61-79.124, 264 through 267, and 270, provided that all of the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in 262.16(b) or 262.17(a), except as required in section 262.15(a)(7) and (8).

262.15(a)(1). Add new item (1) to adopt language that describes the condition for exemption for satellite accumulation if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with 262.16(b) or 262.17(a).

262.15(a)(2). Add new item (2) to adopt language that describes the condition for exemption for satellite accumulation is a generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

262.15(a)(3). Add new item (3) and items (3)(i) through (iii) to adopt language that describes the special standards for incompatible wastes for satellite accumulation for small and large quantity generators.

262.15(a)(4). Add new item (4) and items (4)(i) and (ii) to adopt language that describes how a container holding hazardous waste must be closed at all times during accumulation, except: when adding, removing or

consolidating waste; when temporary venting of a container is necessary for the proper operation of equipment; or when temporary venting of a container is necessary to prevent dangerous situations, such as build-up of extreme pressure.

262.15(a)(5). Add new item (5) and items (5)(i) and (ii) to adopt language that describes how a generator must mark or label its container with the criteria listed in items (5)(i) and (ii).

262.15(a)(6). Add new item (6) and items (6)(i) through (iii) to adopt language that describes how a generator who accumulates either acute hazardous waste listed in section 261.31 or 261.33(e) or non-acute hazardous waste in excess of the amounts listed in paragraph (a) of this section at or near any point of generation must follow the requirements described in (6)(i) through (iii).

262.15(a)(7). Add new item (7) to adopt language that describes how all satellite accumulation areas operated by a small quantity generator must meet the preparedness and prevention regulations of section 262.16(b)(8) and emergency procedures at 262.16(b)(9).

262.15(a)(8). Add new item (8) to adopt language that describes how all satellite accumulation areas operated by a large quantity generator must meet the Preparedness, Prevention and Emergency Procedures in R.61-79.262 subpart M.

262.15(b). Add and reserve new subsection (b).

262.16. Add new section titled, “Conditions for exemption for a small quantity generator that accumulates hazardous waste.” Add new introductory paragraph to adopt language that describes how a small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of R.61-79.124, 264 through 266, and 270, or the notification requirements of the SC Hazardous Waste Management Act section 44-56-120 and section 3010 of RCRA, provided that all the conditions for exemption listed in 262.16(a) through (f) are met.

262.16(a). Add new subsection (a) to adopt language that describes how the generator generates in a calendar month no more than the amounts specified in the definition of “small quantity generator” in section 260.10.

262.16(b). Add new subsection (b) to adopt language that describes how the generator accumulated hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs (d) and (e) of this section with accumulation conditions listed in 262.16(b)(1) through (9).

262.16(b)(1). Add new item (1) to adopt language that describes how the accumulation limit of the quantity of hazardous waste on site should never exceed six thousand (6,000) kilograms (13,200 pounds).

262.16(b)(2). Add new item (2) and items (2)(i) through (v) to adopt language to describe the accumulation of hazardous waste in containers requirements for a small quantity generator.

262.16(b)(3). Add new item (3) to adopt language to introduce the conditions for accumulation of hazardous waste in tanks.

262.16(b)(3)(i). Add new item (3)(i) and reserve.

262.16(b)(3)(ii). Add new item (3)(ii) and items (3)(ii)(A) through (D) to adopt language that describes that a small quantity generator of hazardous waste must comply with the general operating conditions described in new items.

262.16(b)(3)(iii). Add new item (3)(iii) and items (3)(iii)(A) through (E) to adopt language that describes that a small quantity generator that accumulates hazardous waste in tanks must inspect, where present, the materials in (3)(iii)(A) through (E).

262.16(b)(3)(iv). Add new item (3)(iv) to adopt language that describes how a small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in 262.16(b)(3)(iii)(A) through (E).

262.16(b)(3)(v). Add new item (3)(v) and reserve.

262.16(b)(3)(vi). Add new item (3)(vi) to adopt language that describes how a small quantity generator accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with 261.3(c) or (d), that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of R.61-79.262, 263, 265 and 268.

262.16(b)(3)(vii). Add new item (3)(vii) to adopt language that describes how a small quantity generator must comply with specified special conditions in new items (3)(vii)(A) through (C) for accumulation of ignitable or reactive waste.

262.16(b)(4). Add new item (4) to adopt language that describes how the small quantity generator must comply with the requirements in new items (4)(i) through (iii) if the accumulation of hazardous waste is placed on drip pads.

262.16(b)(5). Add new item (5) to adopt language that describes the required procedures for accumulation of hazardous waste in containment buildings. Add new items (5)(i) and (ii) to adopt language that describes the required records the generator must maintain for accumulation of hazardous waste in containment buildings.

262.16(b)(6). Add new item (6) and items (6)(i) through (ii) to adopt language that describe the requirements for labeling and marking of containers and tanks of accumulated hazardous waste.

262.17(b)(7). Add new item (7) to adopt language that describes how a small quantity generator must comply with all the applicable land disposal restriction requirements under R.61-79.268.

262.16(b)(8). Add new item (8) to adopt language to introduce preparedness and prevention for small quantity generators.

262.16(b)(8)(i). Add new item (8)(i) to adopt language that describes the maintenance and operation of a facility. A small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

262.16(b)(8)(ii). Add new item (8)(ii) to adopt language that describes the required equipment for a small quantity generator. All areas where hazardous waste is either generated or accumulated must be equipped with the items described in new items (8)(ii)(A) through (D).

262.16(b)(8)(iii). Add new item (8)(iii) to adopt language that describes the testing and maintenance of required equipment for a small quantity generator. All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

262.16(b)(8)(iv). Add new item (8)(iv) to adopt language that describes access to communications or alarm systems for personnel described in new items (8)(iv)(A) and (B).

262.16(b)(8)(v). Add new item (8)(v) to adopt language that describes the required aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

262.16(b)(8)(vi). Add new item (8)(vi) and new items (8)(vi)(A) through (C) to adopt language that describes the required arrangements with local authorities, including the police department, fire department, and other emergency response teams that small quantity generators must follow.

262.16(b)(9). Add new item (9) to adopt language that describes the emergency procedures for the small quantity generator. The small quantity generator complies with the following conditions described in 262.16(b)(9)(i) through (iv) for those areas of the generator facility where hazardous waste is generated and accumulated.

262.16(b)(9)(i). Add new item (9)(i) to adopt language that describes how at all times there must be at least one employee, who will be designated the emergency coordinator, either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (b)(9)(iv) of this section.

262.16(b)(9)(ii). Add new item (9)(ii) to adopt language that describes how the small quantity generator must post the following information in 262.16(b)(9)(ii)(A) through (C) next to telephones or in areas directly involved in the generation and accumulation of hazardous waste: the name and emergency telephone number of the emergency coordinator; location of fire extinguishers and spill control material, and, if present, fire alarm; and the telephone number of the fire department, unless the facility has a direct alarm.

262.16(b)(9)(iii). Add new item (9)(iii) to adopt language that describes how the small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

262.16(b)(9)(iv). Add new item (9)(iv) and new items (9)(iv)(A) through (C) to adopt language that describes how the emergency coordinator in a small quantity generator facility or his designee must respond to any emergencies that arise. The applicable responses for each possible emergency are described in 9)(iv)(A) through (C).

262.16(c). Add new subsection (c) to adopt language to describe transporting small quantity waste over two hundred (200) miles. A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of two hundred (200) miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on site for two hundred seventy (270) days or less without a permit or without having interim status provided that the generator complies with the conditions of paragraph (b) of this section.

262.16(d). Add new subsection (d) to adopt language to describe accumulation time limit extension for the small quantity generator. A small quantity generator who accumulates hazardous waste for more than one hundred eighty (180) days (or for more than two hundred seventy (270) days if it must transport its waste, or offer its waste for transportation, over a distance of two hundred (200) miles or more) is subject to the requirements of

R.61-79.264, 265, 268, and 270 of this chapter unless it has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the Department if hazardous wastes must remain on site for longer than one hundred eighty (180) days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty (30) days may be granted at the discretion of the Department on a case-by-case basis.

262.16(e). Add new subsection (e) and items (e)(1) and (2) to adopt language to describe the rejected load requirements for the small quantity generator.

262.16(f). Add new subsection (f) to adopt language to describe how a small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with subpart L of R.61-79.262 in lieu of section 262.17.

262.17. Add new section titled, "Conditions for exemption for a large quantity generator that accumulates hazardous waste." Add new introductory text to adopt language to describe how a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of R.61-79.124, 264 through 266, and 270, or the notification requirements of section 3010 of RCRA, provided that all of the following conditions for exemption are met in 262.17(a) through (g).

262.17(a). Add new subsection (a) to adopt language that describes accumulation for a large quantity generator. A large quantity generator accumulates hazardous waste on site for no more than ninety (90) days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions in 262.17(a)(1) through (9) also apply.

262.17(a)(1). Add new item (1) to adopt language that describes accumulation of hazardous waste in containers for large quantity generators. If the hazardous waste is placed in containers, the large quantity generator must comply with the requirements in 262.17(a)(1)(i) through (vii).

262.17(a)(1)(i). Add new item (1)(i) to adopt language that describes air emission standards for large quantity generators. The applicable requirements of subparts AA, BB, and CC of R.61-79.265.

262.17(a)(1)(ii). Add new item (1)(ii) to adopt language that describes the condition of containers for large quantity generators. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section.

262.17(a)(1)(iii). Add new item (1)(iii) to adopt language that describes the compatibility of waste with container for large quantity generators. The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

262.17(a)(1)(iv). Add new item (1)(iv) and new items (1)(iv)(A) and (B) to adopt language that describes the management of containers for large quantity generators.

262.17(a)(1)(v). Add new item (1)(v) to adopt language that describes inspections of large quantity generators. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

262.17(a)(1)(vi). Add new item (1)(vi) and new items (1)(vi)(A) and (B) to adopt language that describes the special conditions for accumulation of ignitable and reactive wastes for large quantity generators.

262.17(a)(1)(vii). Add new item (1)(vii) and items (1)(vii)(A) through (C) to adopt language that describes special conditions for accumulation of incompatible wastes for large quantity generators including: incompatible wastes, or incompatible wastes and materials, must not be placed in the same container, unless in compliance with 265.17(b); hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material, unless in compliance with 265.17(b); and, a container holding a hazardous waste

that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

262.17(a)(2). Add new item (2) to adopt language that describes accumulation of hazardous waste in tanks. If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subpart J, except 265.197(c) of Closure and post-closure care and section 265.200—Waste analysis and trial tests, as well as the applicable requirements of AA, BB, and CC of R.61-79.265.

262.17(a)(3). Add new item (3) and new items (3)(i) through (iii) to adopt language that describes accumulation of hazardous waste on drip pads for large quantity generators. If the hazardous waste is placed on drip pads, the large quantity generator must comply with the requirements described in (a)(3)(i) through (iii).

262.17(a)(4). Add new item (4) to adopt language that describes accumulation of hazardous waste in containment buildings for large quantity generators.

262.17(a)(4)(i). Add new item (4)(i) to adopt language that describes how the large quantity generator must maintain the professional engineer certification that states the building complies with the design standards specified in section 265.1101. This certification must be in the generator's files prior to operation of the unit.

262.17(a)(4)(ii). Add new item (4)(ii) to adopt language that describes how the following records in 262.17(a)(4)(ii)(A) through (C) by use of inventory logs, monitoring equipment, or any other effective means must be maintained by the large quantity generator: a written description of procedures to ensure that each waste volume remains in the unit for no more than ninety (90) days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the ninety(90) day limit, and documentation that the procedures are complied with; or documentation that the unit is emptied at least once every ninety (90) days; and inventory logs or records with the previous information must be maintained on site and readily available for inspection.

262.17(a)(5). Add new item (5) to adopt language to introduce the labeling and marking of containers and tanks requirements for large quantity generators.

262.17(a)(5)(i). Add new item (5)(i) and new items (5)(i)(A) through (C) to adopt language that describes the required markings or labels a large quantity generator must have on its containers.

262.17(a)(5)(ii). Add new item (5)(ii) and items (5)(ii)(A) through (D) to adopt language that describes the requirements of a large quantity generator accumulating hazardous waste in tanks concerning labeling and marking.

262.17(a)(6). Add new item (6) to adopt language that describes how the large quantity generator must comply with the standards in subpart M of R.61-79.262, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

262.17(a)(7). Add new item (7) to adopt language to introduce personnel training requirements for large quantity generators.

262.17(a)(7)(i)(A). Add new item (7)(i)(A) to adopt language that describes how facility personnel must successfully complete a program of classroom instruction, online training (e.g. computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part.

The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

262.17(a)(7)(i)(B). Add new item (7)(i)(B) to adopt language that describes how the personnel training program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

262.17(a)(7)(i)(C). Add new item (7)(i)(C) and items (7)(i)(C)(1) through (6) to adopt language that describes how, at a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

262.17(a)(7)(i)(D). Add new item (7)(i)(D) to adopt language that describes how the large quantity generator is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the conditions of exemption in this section for facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations.

262.17(a)(7)(ii). Add new item (7)(ii) to adopt language that describes how the facility personnel must successfully complete the program required in paragraph (a)(7)(i) of this section within six (6) months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees must not work in unsupervised positions until they have completed the training standards of paragraph (a)(7)(i) of this section.

262.17(a)(7)(iii). Add new item (7)(iii) to adopt language that describes how the facility personnel must take part in an annual review of the initial training required in paragraph (a)(7)(i) of this section.

262.17(a)(7)(iv). Add new item (7)(iv) and items (7)(iv)(A) through (D) to adopt language that describes how the large quantity generator must maintain the required documents and records, listed in (7)(iv)(A) through (D), at the facility.

262.17(a)(7)(v). Add new item (7)(v) to adopt language that describes how training records on current personnel must be kept until closure of the facility at least three (3) years from the date the employee last worked at the facility.

262.17(a)(8). Add new item (8) to adopt language that describes how a large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility must meet the conditions in (8)(i) through (v).

262.17(a)(8)(i). Add new item (8)(i) and items (8)(i)(A) and (B) to adopt language that describes how a large quantity generator must perform one of the requirements described in (8)(i)(A) or (B) for the notification for closure of a waste accumulation unit.

262.17(a)(8)(ii). Add new item (8)(ii) and items (8)(ii)(A) through (C) to adopt language that describes how a large quantity generator must perform one of the requirements described in paragraphs (8)(ii)(A) through (C) when providing notification for closure of the facility.

262.17(a)(8)(iii). Add new item (8)(iii) and items (8)(iii)(A)(1) through (4) to adopt language that describes closure performance standards for container, tank systems, and containment building waste accumulation units.

262.17(a)(8)(iv). Add new item (8)(iv) to adopt language that describes how the generator must comply with the closure performance standards for drip pad waste accumulation units.

262.17(a)(8)(v). Add new item (8)(v) to adopt language that describes how the closure requirements of paragraph (a)(8) of this section do not apply to satellite accumulation areas.

262.17(a)(9). Add new item (9) to adopt language that describes how the large quantity generator must comply with all applicable requirements under R.61-79.268 for land disposal restrictions.

262.17(b). Add new subsection (b) to adopt language that describes how a large quantity generator who accumulates hazardous waste for more than ninety (90) days is subject to the requirements of R.61-79.124, 264 through 268, and 270, and the notification requirements of section 3010 of RCRA, unless it has been granted an extension to the ninety (90) day period. Such extension may be granted by the Department if hazardous wastes must remain on site for longer than ninety (90) days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty (30) days may be granted at the discretion of the Department on a case-by-case basis.

262.17(c). Add new subsection (c) and items (c)(1) through (4) to adopt language that describes how a large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may accumulate F006 waste on site for more than ninety (90) days, but not more than one hundred eighty (180) days without being subject to R.61-79.124, 264 through 267, and 270, and the notification requirements of section 3010 of RCRA, provided that it complies with all of the additional conditions for exemption listed in paragraphs (c)(1) through (4).

262.17(d). Add new subsection (d) to adopt language that describes how a large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred (200) miles or more for off-site metals recovery, may accumulate F006 waste on site for more than ninety (90) days, but not more than two hundred seventy (270) days without being subject to R.61-79.124, 264 through 267, 270, and the notification requirements of section 3010 of RCRA, if the large quantity generator complies with all of the conditions for exemption of paragraphs (c)(1) through (4) of this section.

262.17(e). Add new subsection (e) to adopt language that describes how a large quantity generator accumulating F006 in accordance with paragraphs (c) and (d) of this section who accumulates F006 waste on site for more than one hundred eighty (180) days (or for more than two hundred seventy (270) days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred (200) miles or more), or who accumulates more than twenty thousand kilograms (20,000 kg) of F006 waste on site is an operator of a storage facility and is subject to the requirements of R.61-79.124, 264, 265, and 270, and the notification requirements of section 3010 of RCRA, unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kg accumulation limit.

262.17(f). Add new subsection (f) and items (f)(1) through (3) to adopt language that describes how large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in section 260.10), without a storage permit or interim status and without complying with the requirements of R.61-79.124, 264 through 268, and 270, and the notification requirements of section 3010 of RCRA, provided that they comply with the conditions described in paragraphs (f)(1) through (3).

262.17(g). Add new subsection (g) and items (g)(1) and (2) to adopt language that describes how a large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of section 264.72 or 265.72 may accumulate the returned waste on site in accordance with paragraphs (a) and (b) of this section Upon receipt of the returned shipment, the generator must follow one of the requirements in (g)(1) or (2).

262.18. Add new section titled, "EPA identification numbers and re-notification for small quantity generators and large quantity generators."

262.18(a). Add new subsection (a) to adopt language that describes how a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Department.

262.18(b). Add new subsection (b) to adopt language that describes how a generator who has not received an EPA identification number must obtain one by applying to the Department using EPA Form 8700-12. Upon receiving the request, the Department will assign an EPA identification number to the generator.

262.18(c). Add new subsection (c) to adopt language that describes how a generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

262.18(d). Add new subsection (d) to adopt language that describes the re-notification process. For small quantity generators, listed in 262.18(d)(1), the generator must re-notify the Department starting in 2021 and every four years thereafter using EPA Form 8700-12, which must be submitted by September 1st of each year in which re-notifications are required. For large quantity generators, listed in 262.18(d)(2), the generator must re-notify the Department by March 1st of each even-numbered year thereafter using EPA Form 8700-12. A large quantity generator may submit the re-notification as part of its Biennial Report required under section 262.41.

262.18(e). Add new subsection (e) to adopt language that describes how a recognized trader must not arrange for import or export of hazardous waste without having received an EPA identification number from the Department.

262 Subpart B. Revise subpart title to read, "Manifest Requirements Applicable to Small and Large Quantity Generators."

262 Subpart C. Revise subpart title to read, "Pre-Transport Requirements Applicable to Small and Large Quantity Generators."

262.32(b). Revise subsection to remove "or offering hazardous waste". Revise subsection (b) to change punctuation at the end of the paragraph from "." to ":." Add numerals 262.32(b)(1) through (4) to existing items. Add new item (b)(5) to adopt language to state the EPA Hazardous Waste Number(s) must be included on a container of one hundred nineteen (119) gallons or less used in transportation of hazardous waste off-site.

262.32(c). Add new subsection (c) to adopt language that describes how a generator may use a nationally recognized electronic system, such as bar coding, to identify the EPA Hazardous Waste Number(s), as required by paragraph (b)(5) or (d).

262.32(d). Add new subsection (d) to adopt language that describes how lab packs that will be incinerated in compliance with 268.42(c) are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

262.34. Remove and reserve section.

262.35. Revise section to add section title, "Liquids in landfills prohibition." Revise section to add new introductory paragraph to read, "The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in sections 264.314 and 265.314."

262 Subpart D. Revise subpart title to read, "Recordkeeping and Reporting Applicable to Small and Large Quantity Generators."

262.40(c). Revise subsection to read, "See R.61-79.262.11(f) for recordkeeping requirements for documenting hazardous waste determinations."

262.41(b). Revise subsection to remove "262.56."

262.41(c). Revise subsection to read, "Exports of hazardous waste to foreign countries are not required to be reported on the Biennial Report form. A separate annual report requirement is set forth at section 262.83(g) for hazardous waste exporters."

262.43. Revise section to add introductory text to read "The Department may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in R.61-79.261."

262.44. Revise section title to read, "Recordkeeping for small quantity generators." Revise introductory text to read, "A small quantity generator is subject only to the following independent requirements of this subpart."

262.200. Remove definition for "Central Accumulation Area." Revise definition for "Trained professional" to replace: "265.16" with "R.61-79.262.17," "262.34(d)(5)(iii)" with "R.61-79.262.16," and "conditionally exempt" with "very."

262.201. Revise 262.201(a) and (b) to clarify cross references.

262.202(a) and (b). Revise item to clarify cross references.

262.203(a). Revise subsection to clarify eligible academic entity requirements.

262.203(b)(2). Revise item to replace "conditionally exempt" with "very."

262.204(a). Revise subsection for clarification.

262.204(b)(2) Revise item to replace "conditionally exempt" with "very."

262.206(b)(3)(iii). Revise item to remove the period after "necessary" and add a colon.

262.207(d)(2). Revise item to add "(a) through (d)" after "262.11."

262.208(a). Revise subsection to replace "6" with "12" before "months" in items (1) and (2).

262.208(d)(2). Revise item to read, "If a laboratory accumulates more than 1 quart of liquid reactive acutely hazardous unwanted material or more than one (1) kilogram (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:"

262.208(d)(2)(i). Revise item to insert "or 1 kg" after "1 quart."

262.208(d)(2)(ii). Revise item to insert "or 1 kg" after "1 quart."

262.209(b). Revise subsection to clarify.

262.210(a). Revise subsection to insert "(a) through (d)" after "262.11".

262.210(b)(3). Revise item to replace "status" with "category" and "261.5(c) and (d)" with "R.61-79.262.13."

262.210(d)(2). Revise item to replace "Conditionally exempt" with "Very" and "261.5(f)(3) for acute hazardous waste, or 261.5(g)(3) for hazardous waste" with "R.61-79.262.14."

262.211(c). Revise subsection to replace "262.34(a)" with "R.61-79.262.16," "large" with "small," "262.34(d)" with "R.61-79.262.17," "small" with "large," and "262.34(a)(3)" with "sections 262.16(b)(6) and 262.17(a)(5)."

262.211(d). Revise subsection to insert "(a) through (d)" after "262.11."

262.211(e)(3). Revise item to replace "status" with "category" and "261.5(c) and (d)" with "R.61-79.262.13."

262.212(d). Revise subsection to insert "(a) through (d)" after "262.11."

262.213(a)(1). Revise item to insert "liquid" after "or one (1) quart of," and "or one (1) kilogram of solid reactive acutely hazardous unwanted material" after "reactive acutely hazardous unwanted material," anywhere it appears in the item.

262.213(a)(2). Revise item to replace "status" with "category" and "261.5(c) and (d)" with "R.61-79.262.13" anywhere it appears in the item.

262.213(a)(3). Revise item to replace "status" with "category," "conditionally exempt" with "very," and "261.5" with "R.61-79.260.10." Insert "non-acute" after "more than one hundred (100) kilograms per month of."

262.213(b)(2). Revise item to replace "status" with "category" and "261.5(c) and (d)" with "R.61-79.262.13."

262.214(b)(5). Revise item to insert "(a) through (d)" after "standards at R.61-79.262.11" and "R.61-79." before "262.209."

262.216(a). Revise subsection to replace "262.34(c)" with "262.15."

262.216(b). Revise subsection to replace "261.5(b)" with "section 262.14" and "conditionally exempt" with "very."

262 Subpart L. Add new subpart titled, "Alternative Standards for Episodic Generation."

262.230. Add new section title to read, "Applicability." Add introductory text to adopt language that describes how this subpart is applicable to very small quantity generators and small quantity generators as defined in section 260.10 of this chapter.

262.231. Add new section title to read, "Definitions for this subpart." Add, in alphabetical order, the following new definitions: "Episodic event," "Planned episodic event," and "Unplanned episodic event."

262.232. Add new section title to read, "Conditions for a generator managing hazardous waste from an episodic event."

262.232(a). Add new subsection (a) to adopt language that describes how a very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the conditions in 262.232(a)(1) through (7).

262.232(a)(1). Add new item (1) to adopt language that describes how the very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under R.61-79.262.233, in order to maintain its existing generator category for hazardous waste generated.

262.232(a)(2). Add new item (2) to adopt language that describes the notification requirement for very small quantity generators prior to initiating a planned episodic event and in the event of an unplanned episodic event.

262.232(a)(3). Add new item (3) to adopt language that describes how the very small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700-12 in order to maintain its existing generator category.

262.232(a)(4). Add new item (4) and items (4)(i) through (iii) to adopt language that describes how a very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks, the generator must follow the conditions described in (a)(4)(i) through (iii).

262.232(a)(5). Add new item (5) to adopt language that describes how the very small quantity generator must comply with the hazardous waste manifest provisions of subpart B of this part when it sends its episodic event hazardous waste off site to a designated facility, as defined in section 260.10 of this chapter.

262.232(a)(6). Add new item (6) to adopt language that describes how the very small quantity generator has up to sixty (60) calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in section 260.10 of this chapter.

262.232(a)(7). Add new item (7) and items (7)(i) through (vi) to adopt language that describes how very small quantity generators must maintain records listed in (a)(7)(i) through (vi), for three (3) years from the end date of the episodic event.

262.232(b). Add new subsection (b) to adopt language that describes how a small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the conditions in 262.232(b)(1) through (6).

262.232(b)(1). Add new item (1) to adopt language that describes how the small quantity generator is limited to one episodic event per calendar year unless a petition is granted under section 262.233 in order to maintain its existing generator category during an episodic event.

262.232(b)(2). Add new item (2) to adopt language that describes how the small quantity generator must notify the Department no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA Form 8700-12 in order to maintain its existing generator category during an episodic event. In the event of an unplanned episodic event, the small quantity generator must notify the Department within 72 hours of the unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700-12. The small quantity generator shall include the start date and end date of the episodic event and the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency.

262.232(b)(3). Add new item (3) to adopt language that describes how the small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700-12.

262.232(b)(4). Add new item (4) and items (4)(i) and (ii) to adopt language that describes how a small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the conditions listed in (b)(4)(i) and (ii) apply.

262.232(b)(5). Add new item (5) to adopt language that describes how the small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a designated facility (as defined by 260.10) within sixty (60) calendar days from the start of the episodic event.

262.232(b)(6). Add new item (6) to adopt language that describes how the small quantity generator must maintain the following records, listed (b)(6)(i) through (vi), for three (3) years from the end date of the episodic event.

262.233. Add new section title to read, "Petition to manage one additional episodic event per calendar year."

262.233(a). Add new subsection (a) and items (a)(1) and (2) to adopt language that describes how a generator may petition the Department for a second episodic event in a calendar year without impacting its generator category under the conditions described in 262.233(a)(1) and (2).

262.233(b). Add new subsection (b) and items (b)(1) through (5) to adopt language that describes how the generator's petition must include the requirements listed in (b)(1) through (5).

262.233(c). Add new subsection (c) to adopt language that describes how the petition must be made to the Department in writing, either on paper or electronically.

262.233(d). Add new subsection (d) to adopt language that describes how the generator must retain written approval in its records for three (3) years from the date the episodic event ended.

262 Subpart M. Add new subpart titled, "Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators."

262.250. Add new section titled, "Applicability." Add new introductory text to adopt language that describes how the regulation of subpart M applies to those areas of a large quantity generator where hazardous waste is generated or accumulated on site.

262.251. Add new section titled, "Maintenance and operation of facility." Add new introductory text to adopt language that describes how a large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or environment.

262.252. Add new section titled, "Required equipment." Add new introductory text and subsections (a) through (d) to adopt language that describes how all areas deemed applicable by section 262.250 must be equipped with the items in paragraphs (a) through (d) of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual hazardous waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below).

262.253. Add new section titled, "Testing and maintenance of equipment." Add new introductory text to adopt language that describes how all communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

262.254. Add new section titled, "Access to communications or alarm system."

262.254(a). Add new subsection (a) to adopt language that describes how all personnel involved in the operation of pouring, mixing, spreading, or otherwise handling hazardous waste must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under section 262.252.

262.254(b). Add new subsection (b) to adopt language that describes how the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a

device is not required under section 262.252 in the event there is only one employee on the premises while the facility is operating.

262.255. Add new section titled, "Required aisle space." Add new introductory text to adopt language that describes how the large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

262.256. Add new section titled, "Arrangements with local authorities."

262.256(a). Add new subsection (a) to adopt language that describes how the large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

262.256(a)(1). Add new item (1) to adopt language that describes how a large quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

262.256(a)(2). Add new item (2) to adopt language that describes how the large quantity generator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the facility as part of coordination with local authorities.

262.256(a)(3). Add new item (3) to adopt language that describes how the large quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority where more than one police or fire department might respond to an emergency.

262.256(b). Add new subsection (b) to adopt language that describes how the large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

262.256(c). Add new subsection (c) to adopt language that describes how a facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

262.260. Add new section titled, "Purpose and implementation of contingency plan."

262.260(a). Add new subsection (a) to adopt language that describes how a large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

262.260(b). Add new subsection (b) to adopt language that describes how the provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

262.261. Add new section titled, "Content of contingency plan."

262.261(a). Add new subsection (a) to adopt language that describes how the contingency plan must describe the actions facility personnel must take to comply with sections 262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

262.261(b). Add new subsection (b) to adopt language that describes how the generator need only amend the Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter or some other emergency or contingency plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part.

262.261(c). Add new subsection (c) to adopt language that describes how the plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to section 262.256.

262.261(d). Add new subsection (d) to adopt language that describes how the plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see section 262.264), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

262.261(e). Add new subsection (e) to adopt language that describes how the plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

262.261(f). Add new subsection (f) to adopt language that describes how the plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

262.262. Add new section titled, "Copies of contingency plan." Add new introductory text to adopt language that describes how a copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator and follow 262.262(a) through (c).

262.262(a). Add new subsection (a) to adopt language that describes how the large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

262.262(b). Add new subsection (b) and items (b)(1) through (8) to adopt language that describes how a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator

that is otherwise amending its contingency plan must at that time submit a quick reference guide, which must contain the requirements listed in (b)(1) through (8), of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.

262.262(c). Add new subsection (c) to adopt language that describes how generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.

262.263. Add new section titled, "Amendment of contingency plan." Add new introductory text and subsections (a) through (e) to adopt language that describes how the contingency plan must be reviewed, and immediately amended, if necessary, whenever the following applies, listed in (a) through (e): applicable regulations are revised; the plan fails in an emergency; the generator facility changes in a way that materially increases the potential for fires, explosions, or releases of hazardous waste constituents, or changes the response necessary in an emergency; the list of emergency coordinators changes; or the list of emergency equipment changes.

262.264. Add new section titled, "Emergency coordinator." Add new introductory text to adopt language that describes how there must be at least one employee either on the generator's premises or on call with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in section 262.265 at all times. Although responsibilities may vary depending on factors such as type and variety of hazardous waste(s) handled by the facility, as well as type and complexity of the facility, this emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous waste handled, the location of all records within the facility, and the facility's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

262.265. Add new section titled, "Emergency procedures."

262.265(a). Add new subsection (a) and items (a)(1) and (2) to adopt language that describes how whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately do the requirements in (a)(1) and (2): activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and notify appropriate state or local agencies with designated response roles if their help is needed.

262.265(b). Add new subsection (b) to adopt language that describes how whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of the facility records or manifests and, if necessary, by chemical analysis.

262.265(c). Add new subsection (c) to adopt language that describes how concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

262.265(d). Add new subsection (d) and items (1) and (2) to adopt language that describes how if the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, outside the facility, the emergency coordinator must report the findings described in (d)(1) and (2).

262.265(e). Add new subsection (e) to adopt language that describes how the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility during an emergency. These measures must include, where

applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

262.265(f). Add new subsection (f) to adopt language that describes how the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate if the generator stops operations in response to a fire, explosion, or release.

262.265(g). Add new subsection (g) to adopt language that describes how immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable requirements and conditions for exemption in R.61-79.262, 263, and 265.

262.265(h). Add new subsection (h) and items (h)(1) and (2) to adopt language that describes how the emergency coordinator must ensure that, in the affected area(s) of the facility no hazardous waste that may be incompatible with the release material is treated, stored, or disposed of until cleanup procedures are completed, and all emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

262.265(i). Add new subsection (i) and items (i)(1) through (6) to adopt language that describes how the generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen (15) days after the incident, the generator must submit a written report on the incident to the Department that includes the requirements listed in (i)(1) through (6).

263.12. Revise introductory text to add alphanumeric (a) and for clarification.

263.12(b). Add new subsection (b) and items (b)(1) and (2) to adopt language that describes how when consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with each other, the transporter must mark its containers of 119 gallons or less with the words “Hazardous Waste”; and the applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of R.61-79.261, or in compliance with 262.32(c).

264.1(g)(1). Revise item to replace “261.5” with “R.61-79.261.14.”

264.1(g)(3). Revise item to replace “262.34” with “262.14, 262.15, 262.16, or 262.17.”

264.15(b)(4). Revise item to insert text at the end to read, “R.61-79.270 requires the inspection schedule to be submitted with part B of the permit application. The Department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Department may modify or amend the schedule as may be necessary.” Remove comment for 264.15(b)(4).

264.71(c). Revise item to insert text at the end to read, “The provisions of sections 262.15, 262.16, and 262.17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of sections 262.15, 262.16, and 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under 262.17(f).” Remove comment to 264.71(c).

264.174. Revise section to read, “At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. See sections 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.”

264.1030(b)(2). Revise item to replace “262.34(a)” with “R.61-79.262.17.”

264.1050(b)(3). Revise item to replace “262.34(a)” with “R.61-79.262.17.”

265.1(c)(5). Revise item to replace “261.5 of this chapter” with “R.61-79.262.14.”

265.1(c)(7). Revise item to read, “A generator accumulating waste onsite in compliance with applicable conditions for exemption in R.61-79.262.14 through 262.17, and R.61-79.262 subparts K and L, except to the extent the requirements of R.61-79.262 are included in those sections and subparts.”

265.71(c). Revise subsection to insert text at the end to read, “The provisions of R.61-79.262.15, 262.16, and 262.17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of R.61-79.262.15, 262.16, and 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under 262.17(f).” Remove comment for 265.71(c).

265.174. Revise text to remove phrase “and the containment system.” Insert new sentence at the end to read, “See R.61-79.265.171 for remedial action required if deterioration or leaks are detected.” Remove comment for 265.174.

265.201. Remove and reserve section.

265.1030(b)(2) and (b)(3). Revise items to replace “262.34(a)” with “R.61-79.262.17.”

265.1050(b)(2) and (b)(3). Revise items to replace “262.34(a)” with “R.61-79.262.17.”

266.255(a). Revise subsection to replace “R.61-79.262.34” with “R.61-79.262.16 or 262.17.”

268.1(e)(1). Revise item to read, “Wastes generated by very small quantity generators, as defined in R.61-79.260.10.”

268.7(a)(5). Revise item to replace “262.34” with “R.61-79.262.15, 262.16, and 262.17.”

268.50(a)(1). Revise item to replace clarify new section references.

268.50(a)(2)(i). Revise item to remove “the date each period of accumulation begins;” and insert “with:.”

268.50(a)(2)(i)(A). Add new item (2)(i)(A) to adopt language that describes how each container of hazardous waste is clearly marked with the words “Hazardous Waste.”

268.50(a)(2)(i)(B). Add new item (2)(i)(B) to adopt language that describes how each container of hazardous waste is clearly marked with the applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of R.61-79.261; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s).

268.50(a)(2)(i)(C). Add new item (2)(i)(C) to adopt language that describes how each container of hazardous waste is clearly marked with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristics(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

268.50(a)(2)(i)(D). Add new item (2)(i)(D) to adopt language that describes how each container of hazardous waste is clearly marked with the date each period of accumulation begins.

270.1(a)(3). Revise item to read, "Technical regulations. The RCRA permit program has separate additional regulations that contain technical requirements. These separate regulations are used by permit issuing authorities to determine what requirements must be placed in permits if they are issued. These separate regulations are located in R.61-79.264, 266, 267, and 268."

270.1(c)(2). Revise item to insert "and exemptions" after "Specific exclusions" and "RCRA" before "permit."

270.1(c)(2)(i). Revise item to read, "Generators who accumulate hazardous waste onsite in compliance with all of the conditions for exemption provided in R.61-79.262.14, 262.15, 262.16, and 262.17."

270.1(c)(2)(iii). Revise item to read, "Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this Part by R.61-79.261.4 or 261.14 (very small quantity generator exemption)."

270.42(l). Revise subsection to reserve it.

270.42 Appendix I to 270.42 Section O. Revise section to remove and reserve O.1.

273.8. Revise section title to read, "Applicability—household and very small quantity generator waste."

273.8(a)(2). Revise item to replace "Conditionally exempt" with "Very," and "261.5" with "261.14."

273.81(b). Revise subsection to replace "conditionally exempt" with "very."

Instructions:

Amend R.61-79 pursuant to each individual instruction provided with the text of the amendments below.

Text:

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Section 44-56-30

Revise 61-79.260.3 to read:

As used in R.61-79.260 through R.61-79.273:

Revise 61-79.260.10 to add the following definitions in alphabetical order within this section to read:

"Acute hazardous waste" means hazardous wastes that meet the listing criteria in section R.61-79.261.11(a)(2) and therefore are either listed in R.61-79.261.31 with the assigned hazard code of (H) or are listed in R.61-79.261.33(e).

"Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either R.61-79.262.16 (for small quantity generators) or R.61-79.262.17(for large quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under R.61-79.262 subpart K is also subject to R.61-79.262.211 when accumulating unwanted material and/or hazardous waste.

"Large quantity generator" means a generator who generates any of the following amounts in a calendar month:

(1) Greater than or equal to one thousand (1,000) kilograms (2,200 pounds) of non-acute hazardous waste; or

(2) Greater than one (1) kilogram (2.2 pounds) of acute hazardous waste listed in R.61-79.261.31 or 261.33(e); or

(3) Greater than one hundred (100) kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in R.61-79.261.31 or 261.33(e).

"Non-acute hazardous waste" means all hazardous wastes that are not acute hazardous waste, as defined in this section.

"Small quantity generator" means a generator who generates the following amounts in a calendar month:

(1) Greater than one hundred (100) kilograms (220 pounds) but less than one thousand (1,000) kilograms (2,200 pounds) of non-acute hazardous waste; and

(2) Less than or equal to one (1) kilogram (2.2 pounds) of acute hazardous waste listed in R.61-79.261.31 or 261.33(e); and

(3) Less than or equal to one hundred (100) kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in R.61-79.261.31 or 261.33(e).

"Very small quantity generator" means a generator who generates less than or equal to the following amounts in a calendar month:

(1) One hundred (100) kilograms (220 pounds) of non-acute hazardous waste; and

(2) One (1) kilogram (2.2 pounds) of acute hazardous waste listed in R.61-79.261.31 or 261.33(e); and

(3) One hundred (100) kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in R.61-79.261.31 or 261.33(e).

Revise 61-79.260.11 to read:

260.11. Incorporation by reference.

Revise 61-79.260.11(a)(10) to read:

(10) "Flammable and Combustible Liquids Code" (NFPA 30), 1977 or 1981, IBR approved for sections 262.16(b), 264.198(b), and 265.198(b).

Revise 61-79.261.1(a)(1) to read:

(1) Subpart A defines the terms "solid waste" and "hazardous waste", identifies those wastes which are excluded from regulation under R.61-79.262 through 266, 268, and 270, and establishes special management

requirements for hazardous waste produced by very small quantity generators and hazardous waste which is recycled.

Revise 61-79.261.4(a)(7) to read:

(7) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in section 261.1(c).

Revise 61-79.261.5 to remove and reserve it.

261.5. [Reserved]

Add 61-79.261.6(c)(2)(iv) to read:

(iv) Section 265.75 of this chapter (quarterly report).

Revise 61-79.261.33(e) to read:

(e) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H).

Revise 61-79.261.33(f) to read:

(f) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in paragraphs (a) through (d) of this section, are identified as toxic wastes (T), unless otherwise designated.

Revise 61-79.262 to add section 262.1 to read:

262.1. Terms used in this part.

As used in this part:

"Condition for exemption" means any requirement in sections 262.14, 262.15, 262.16, 262.17, 262.70, or subpart K or subpart L of this part that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in R.61-79.124, 264 through 268, and 270 of this chapter, or from any requirement for notification under the SC Hazardous Waste Management Act section 44-56-120 and section 3010 of RCRA.

"Independent requirement" means a requirement of R.61-79.262 that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from storage facility permit, interim status, and operating requirements under sections 262.14, 262.15, 262.16, 262.17, or subpart K or subpart L.

Revise 61-79.262.10(a) to add item 262.10(a)(1) to read:

(a) These regulations establish standards for generators of hazardous waste as defined by R.61-79.260.10.

(1) A person who generates a hazardous waste as defined by R.61-79.261 is subject to all the applicable independent requirements in the subparts and sections listed below:

(i) Independent requirements of a very small quantity generator.

(A) Section 262.11(a) through (d) Hazardous waste determination and recordkeeping;

(B) Section 262.12 Notification requirements upon generators; and

(C) Section 262.13 Generator category determination.

(ii) Independent requirements of a small quantity generator.

(A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.12 Notification requirements upon generators;

(C) Section 262.13 Generator category determination;

(D) Section 262.18 EPA identification numbers and renotification for small quantity generators and large quantity generators;

(E) R.61-79.262 subpart B—Manifest requirements applicable to small and large quantity generators;

(F) R.61-79.262 subpart C—Pre-transport requirements applicable to small and large quantity generators;

(G) Section 262.40 Recordkeeping;

(H) Section 262.44 Recordkeeping for small quantity generators; and

(I) R.61-79.262 subpart H—Transboundary movements of hazardous waste for recovery or disposal.

(iii) Independent requirements of a large quantity generator.

(A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.12 Notification requirements upon generators;

(C) Section 262.13 Generator category determination;

(D) Section 262.18 EPA identification numbers and renotification for small quantity generators and large quantity generators;

(E) R.61-79.262 subpart B—Manifest requirements applicable to small and large quantity generators;

(F) R.61-79.262 subpart C—Pre-transport requirements applicable to small and large quantity generators;

(G) R.61-79.262 subpart D—Recordkeeping and reporting applicable to small and large quantity generators, except section 262.44; and

(H) R.61-79.262 subpart H—Transboundary movements of hazardous waste for recovery or disposal.

(2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of R.61-79.124, 264 through 266, 270, the SC Hazardous Waste Management Act Section 44-56-120, and section 3010 of RCRA, unless it is one of the following:

(i) A very small quantity generator that meets the conditions for exemption in section 262.14;

(ii) A small quantity generator that meets the conditions for exemption in sections 262.15 and 262.16; or

(iii) A large quantity generator that meets the conditions for exemption in sections 262.15 and 262.17.

(3) A generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in section 260.10 or not otherwise authorized to receive the generator's hazardous waste.

Revise 61-79.262.10(b) to read:

(b) Determining generator category. A generator must use section 262.13 to determine which provisions of this part are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

Revise 61-79.262.10(c) to remove and reserve it:

(c) [Reserved]

Revise 61.79.262.10(g) to add items 262.10(g)(1) to 262.10(g)(2) to read:

(g)(1) A generator's violation of an independent requirement is subject to penalty and injunctive relief under the SC Hazardous Waste Management Act 44-56-120 and section 3008 of RCRA

(2) A generator's noncompliance with a condition for exemption in this part is not subject to penalty or injunctive relief under the SC Hazardous Waste Management Act 44-56-120 and section 3008 of RCRA as a violation of a R.61-79.262 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in R.61-79.124, 264 through 266, and 270 of this chapter, and the notification requirements of section 3010 of RCRA. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under the SC Hazardous Waste Management Act Section 44-56-120 and section 3008 of RCRA.

Revise 61-79.262.10(i) Notes 1 and 2 to read:

Note: A generator who treats, stores, or disposes of hazardous waste onsite must comply with the applicable standards and permit requirements set forth in parts 264, 265, 266, 268, and 270.

Revise 61-79.262.10(l) to read:

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of R.61-79.262 subpart K are not subject to (for purposes of this paragraph, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in section 262.200):

(1) the independent requirements of section 262.11 or the regulations in section 262.15 for large quantity generators and small quantity generators, except as provided in subpart K, and

(2) the conditions of section 262.14, for very small quantity generators, except as provided in subpart K.

Revise 61-79.262.11(a) to 262.11(c) to read:

262.11. Hazardous waste determination and recordkeeping.

A person who generates a solid waste, as defined in R.61-79.261.2 must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps:

(a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

(b) A person must determine whether the solid waste is excluded from regulation under R.61-79.261.4.

(c) If the waste is not excluded under R.61-79.261.4, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under subpart D of R.61-79.261. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under R.61-79.260.20 and 260.22 to demonstrate to the Department that the waste from this particular site or operation is not a hazardous waste.

Revise 61-79.262.11(d) and add items 262.11(d)(1) to (d)(2) to read:

(d) The person then must also determine whether the waste exhibits one or more hazardous characteristics as identified in subpart C of R.61-79.261 by following the procedures in paragraph (d)(1) or (2) of this section, or a combination of both.

(1) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in subpart C of R.61-79.261, or an equivalent test method approved by the Department under R.61-79.260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at R.61-79.260.10.

(2) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in subpart C of R.61-79.261 or according to an equivalent method approved by the Department under R.61-79.260.21 and in accordance with the following:

(i) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at R.61-79.260.10.

(ii) Where a test method is specified in subpart C of R.61-79.261, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

Revise 61-79.262.11(e) to read:

(e) If the waste is determined to be hazardous, the generator must refer to R.61-79.261, 264, 265, 266, 268, and 273 for other possible exclusions or restrictions pertaining to management of the specific waste.

Revise 61-79.262.11 to add subsections 262.11(f) to 262.11(g) to read:

(f) Recordkeeping for small and large quantity generators. A small or large quantity generator must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by R.61-79.261.3. Records must be maintained for at least three (3) years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at paragraphs (c) and (d) of this section. The records must include, but are not limited to, the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at R.61-79 paragraph (d)(1) of this section. The periods of record retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

(g) Identifying hazardous waste numbers for small and large quantity generators. If the waste is determined to be hazardous, small quantity generators and large quantity generators must identify all applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of R.61-79.261. Prior to shipping the waste off site, the generator also must mark its containers with all applicable EPA hazardous waste numbers (EPA hazardous waste codes) according to section 262.32.

Revise 61-79.262.12 to read:

262.12. Notification Requirements upon Generators.

(a) Every generator within the state who produces a hazardous waste and has not previously done so shall file with the Department a Notification Form for that waste within thirty (30) days of the effective date of this regulation.

(b) Every generator within the state who produces a new hazardous waste shall file with the Department a revised or new Notification Form for that waste within thirty (30) days after such waste is first produced.

(c) Every generator within the state who produces a hazardous waste which is classified or listed for the first time by a revision of R.61-79.261 shall file with the Department a revised or new Notification Form for that waste within ninety (90) days after the effective date of such revision.

(d) The notification shall be on a form designated by the Department, shall be completed as required by the instructions supplied with such forms. The information to be furnished on the form shall include but not be limited to the location and general description of such activity, the identified or listed hazardous wastes handled by such person and, if applicable, a description of the production of energy recovery activity carried out at the facility and such other information as the Department deems necessary. A generator shall file a revised or new Notification form whenever the information previously provided becomes outdated or inaccurate.

(e) Persons engaged in the following activities are required to make a separate notification:

(1) Producers of fuels from;

(i) Any hazardous waste identified or listed in R.61-79.261;

(ii) Used oil; and

(iii) Used oil and any other material.

(2) Burners (other than a single two-family residence) for purposed of energy recovery any fuel produced as identified in paragraph one (1).

(3) Distributors or marketers of any fuel as identified in paragraph one (1).

(f) Every generator within the State who no longer produces any hazardous waste shall file with the Department one subsequent Notification form.

Revise 61-79.262.13 to read:

262.13. Generator category determination.

A generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in R.61-79.260.10.

(a) Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:

(1) Counting the total amount of hazardous waste generated in the calendar month;

(2) Subtracting from the total of any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and

(3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section.

(b) Generators of both acute and non-acute hazardous wastes. A generator who generates both acute hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing the following:

(1) Counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;

(2) Subtracting from each total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section;

(3) Determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated using Table 1 of this section; and

(4) Comparing the resulting generator categories from paragraph (b)(3) of this section and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute hazardous waste generated for that month.

Table 1 to section 262.13 – Generator Categories Based on Quantity of Waste Generated in a Calendar Month			
Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
>1 kg	Any amount	Any amount	Large quantity generator.
Any amount	≥ 1,000 kg	Any amount	Large quantity generator.
Any amount	Any amount	> 100 kg	Large quantity generator.
≤ 1 kg	> 100 kg and < 1,000 kg	≤ 100 kg	Small quantity generator.
≤ 1 kg	≤ 100 kg	≤ 100 kg	Very small quantity generator.

(c) When making the monthly quantity-based determinations required by R.61-79.262, the generator must include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under sections 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8;

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in R.61-79.260.10;

(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under section 261.6(c)(2);

(4) Is used oil managed under the requirements of 261.6(a)(4);

(5) Is spent lead-acid batteries managed under the requirements of R.61-79.266 subpart G;

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

(7) Is a hazardous waste that is an unused commercial chemical product (listed in R.61-79.261 subpart D or exhibiting one or more characteristics in R.61-79.261 subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to R.61-79.262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in R.61-79.262.200; or

(8) Is managed as part of an episodic event in compliance with the conditions of R.61-79.262 subpart L.

(d) In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(1) Hazardous waste when it is removed from on-site accumulation, so long as the hazardous waste was previously counted once;

(2) Hazardous waste generated by on-site treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; and

(3) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.

(e) Based on the generator category as determined under this section, the generator must meet the applicable independent requirements listed in R.61-79.262.10. A generator's category also determines which of the provisions of R.61-79.262.14, 262.15, 262.16, or 262.17 must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste.

(f) Mixing hazardous wastes with solid wastes.

(1) Very small quantity generator wastes.

(i) Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix a portion or all of its hazardous waste with solid waste and remain subject to section 262.14 even though the resultant mixture exceeds the quantity limits identified in the definition of "very small quantity generator" at section 260.10 of this chapter, unless the mixture exhibits one or more of the characteristics of hazardous waste identified in R.61-79.261 subpart C.

(ii) If the resulting mixture exhibits a characteristic of hazardous waste, this resultant mixture is a newly-generated hazardous waste. The very small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the very small quantity generator calendar month quantity limits identified in the definition of generator categories found in R.61-79.260.10. If so, to remain exempt from the permitting, interim status, and operating standards, the very small quantity generator must meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator must also comply with the applicable independent requirements for either a small quantity generator or a large quantity generator.

(2) Small quantity generator and large quantity generator wastes.

(i) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid waste. These mixtures are subject to the following: the mixture rule in sections 261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i); the prohibition of dilution rule at section 268.3(a); the land disposal restriction requirements of R.61-79.268.40 if a characteristic hazardous waste is mixed with a solid waste so that it no longer exhibits the hazardous characteristic; and the hazardous waste determination requirement at R.61-79.262.11.

(ii) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly-generated hazardous waste. A small quantity generator must count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the small quantity generator calendar monthly quantity limits identified in the definition of generator categories found in R.61-79.260.10. If so, to remain exempt from the permitting, interim status, and operating standards, the small quantity generator must meet the conditions for exemption applicable to a large quantity generator. The small quantity generator must also comply with the applicable independent requirements for a large quantity generator.

Revise 61-79.262 to add section 262.14 to read:

262.14. Conditions for exemption for a very small quantity generator.

(a) Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of R.61-79.124, 262 (except sections 262.10-262.14) through 268, and 270, and the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of "very small quantity generator" in R.61-79.260.10;

(2) The very small quantity generator complies with R.61-79.262.11(a) through (d);

(3) If the very small quantity generator accumulates at any time greater than one (1) kilogram (2.2 pounds) of acute hazardous waste or one hundred (100) kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in R.61-79.261.31 or 261.33(e), all quantities of that acute hazardous waste are subject to the following additional conditions for exemption:

(i) Such waste is held on site for no more than ninety (90) days beginning on the date when the accumulated wastes exceed the amounts provided above; and

(ii) The conditions for exemption in R.61-79.262.17(a) through (g).

(4) If the very small quantity generator accumulates at any time one thousand (1,000) kilograms (2,200 pounds) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:

(i) Such waste is held on site for no more than one hundred eighty (180) days, or two hundred seventy (270) days, if applicable, beginning on the date when the accumulated waste exceeds the amounts provided above;

(ii) The quantity of waste accumulated on site never exceeds six thousand (6,000) kilograms (13,200 pounds); and

(iii) The conditions for exemption in R.61-79.262.16(b)(2) through (f).

(5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in paragraphs (a)(3) and (4) of this section must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under R.61-79.270;

(ii) In interim status under R.61-79.265 and 270;

(iii) [Reserved]

(iv) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to R.61-107.19 and 40 CFR Part 258;

(v) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in R.61-107.19 and 40 CFR 257.5 through 257.30;

(vi) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(vii) For universal waste managed under R.61-79.273, a universal waste handler or destination facility subject to the requirements of R.61-79.273;

(viii) A large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:

(A) The very small quantity generator and the large quantity generator are under the control of the same person as defined in R.61-79.260.10. "Control," for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in R.61-79.260.10 shall not be deemed to "control" such generators.

(B) The very small quantity generator marks its container(s) of hazardous waste with:

(1) The words "Hazardous Waste" and

(2) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(b) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfills is prohibited.

(c) A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with R.61-79.262 subpart L in lieu of R.61-79.262.15, 262.16, and 262.17.

Revise 61-79.262 to add section 262.15 to read:

262.15. Satellite accumulation area regulations for small and large quantity generators.

(a) A generator may accumulate as much as fifty-five (55) gallons of non-acute hazardous waste and/or either one quart of liquid acute hazardous waste listed in R.61-79.261.31 or section 261.33(e) or one (1) kilogram (2.2 pounds) of solid acute hazardous waste listed in R.61-79.261.31 or section 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of R.61-79.124, 264 through 267, and 270, provided that all of the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in section 262.16(b) or section 262.17(a), except as required in section 262.15(a)(7) and (8). The conditions for exemption for satellite accumulation are:

(1) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with R.61-79.262.16(b) or 262.17(a).

(2) The generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(3) Special standards for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials, (see appendix V of R.61-79.265 for examples) must not be placed in the same container, unless R.61-79.265.17(b) is complied with.

(ii) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of R.61-79.265 for examples), unless R.61-79.65.17(b) is complied with.

(iii) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers must be separated from the other materials or protected from them by any practical means.

(4) A container holding hazardous waste must be closed at all times during accumulation, except:

(i) When adding, removing, or consolidating waste; or

(ii) When temporary venting of a container is necessary

(A) For the proper operation of equipment, or

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

(5) A generator must mark or label its container with the following:

(i) The words “Hazardous Waste” and

(ii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(6) A generator who accumulates either acute hazardous waste listed in R.61-79.261.31 or section 261.33(e) or non-acute hazardous waste in excess of the amounts listed in paragraph (a) of this section at or near any point of generation must do the following:

(i) Comply within three (3) consecutive calendar days with the applicable central accumulation area regulations in 262.16(b) or R.61-79.262.17(a), or

(ii) Remove the excess from the satellite accumulation area within three (3) consecutive calendar days to either:

(A) A central accumulation area operated in accordance with the applicable regulations in section 262.16(b) or section 262.17(a);

(B) An on-site interim status or permitted treatment, storage, or disposal facility, or

(C) An off-site designated facility; and

(iii) During the three (3)-consecutive-calendar-day period the generator must continue to comply with paragraphs (a)(1) through (5) of this section. The generator must mark or label the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(7) All satellite accumulation areas operated by a small quantity generator must meet the preparedness and prevention regulations of 262.16(b)(8) and emergency procedures at section 262.16(b)(9).

(8) All satellite accumulation areas operated by a large quantity generator must meet the Preparedness, Prevention and Emergency Procedures in R.61-79.262 subpart M.

(b) [Reserved].

Revise 61-79.262 to add section 262.16 to read:

262.16. Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of R.61-79.124, 264 through 266, and 270, or the notification requirements of the SC Hazardous Waste Management Act 44-56-120 and section 3010 of the RCRA, provided that all the conditions for exemption listed in this section are met:

(a) Generation. The generator generates in a calendar month no more than the amounts specified in the definition of "small quantity generator" in R.61-79.260.10.

(b) Accumulation. The generator accumulates hazardous waste on site for no more than one hundred eighty (180) days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs (d) and (e) of this section. The following accumulation conditions also apply:

(1) Accumulation limit. The quantity of hazardous waste accumulated on site never exceeds six thousand (6,000) kilograms (13,200 pounds);

(2) Accumulation of hazardous waste in containers—

(i) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section.

(ii) Compatibility of waste with container. The small quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) Management of containers.

(A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(C) A generator may not stack containers of hazardous waste more than two containers high without first obtaining written approval from the Department.

(iv) Inspections. At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (b)(2)(i) of this section for remedial action required if deterioration or leaks are detected.

(v) Special conditions for accumulation of incompatible wastes.

(A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of R.61-79.265 for examples) must not be placed in the same container, unless section 265.17(b) is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of R.61-79.265 for examples), unless section 265.17(b) is complied with.

(C) A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(3) Accumulation of hazardous waste in tanks.

(i) [Reserved].

(ii) A small quantity generator of hazardous waste must comply with the following general operating conditions:

(A) Treatment or accumulation of hazardous waste in tanks must comply with section 265.17(b).

(B) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(C) Uncovered tanks must be operated to ensure at least sixty (60) centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty (60) centimeters (2 feet) of the tank.

(D) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

(iii) Except as noted in paragraph (b)(3)(iv) of this section, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

(A) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(B) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(C) The level of waste in the tank at least once each operating day to ensure compliance with paragraph (b)(3)(ii)(C) of this section;

(D) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(E) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(iv) A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in paragraphs (b)(3)(iii)(A) through (E) of this section. Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the generator.

(v) [Reserved].

(vi) A small quantity generator accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with section 261.3(c) or (d), that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of R.61-79.262, 263, 265 and 268.

(vii) A small quantity generator must comply with the following special conditions for accumulation of ignitable or reactive waste:

(A) Ignitable or reactive waste must not be placed in a tank, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R.61-79.261.21 or R.61-79.261.23 and R.61-79.265.17(b) is complied with; or

(2) The waste is accumulated or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) The tank is used solely for emergencies.

(B) A small quantity generator which treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981) (incorporated by reference, see R.61-79.260.11).

(C) A small quantity generator must comply with the following special conditions for incompatible wastes:

(1) Incompatible wastes, or incompatible wastes and materials, (see appendix V of R.61-79.265 for examples) must not be placed in the same tank, unless R.61-79.265.17(b) of this chapter is complied with.

(2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless 265.17(b) of this chapter is complied with.

(4) Accumulation of hazardous waste on drip pads. If the waste is placed on drip pads, the small quantity generator must comply with the following:

(i) Subpart W of R.61-79.265 (except R.61-79. 265.445(c));

(ii) The small quantity generator must remove all wastes from the drip pad at least once every ninety (90) days. Any hazardous wastes that are removed from the drip pad at least once every ninety (90) days are then subject to the one hundred eighty (180)-day accumulation limit in paragraph (b) of this section and R.61-79.262.15 if hazardous wastes are being managed in satellite accumulation areas prior to being moved to the central accumulation area; and

(iii) The small quantity generator must maintain on site at the facility the following records readily available for inspection:

(A) A written description of procedures that are followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ninety (90) days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(5) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the small quantity generator must comply with of R.61-79.265 subpart DD. The generator must label its containment buildings with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).The generator must also maintain:

(i) The professional engineer certification that the building complies with the design standards specified in R.61-79.265.1101. This certification must be in the generator's files prior to operation of the unit; and

(ii) The following records by use of inventory logs, monitoring equipment, or any other effective means:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety (90) days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with maintaining the ninety (90) day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every ninety (90) days.

(C) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(6) Labeling and marking of containers and tanks—

(i) Containers. A small quantity generator must mark or label its containers with the following:

(A) The words "Hazardous Waste";

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) Tanks. A small quantity generator accumulating hazardous waste in tanks must do the following:

(A) Mark or label its tanks with the words “Hazardous Waste”;

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within one hundred eighty (180) days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within one hundred eighty (180) days of first entering; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(7) Land disposal restrictions. A small quantity generator must comply with all the applicable requirements under R.61-79.268.

(8) Preparedness and prevention—

(i) Maintenance and operation of facility. A small quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

(ii) Required equipment. All areas where hazardous waste is either generated or accumulated must be equipped with the items in paragraphs (b)(8)(ii)(A) through (D) of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

(A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(iii) Testing and maintenance of equipment. All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(iv) Access to communications or alarm system.

(A) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under paragraph (a)(8)(ii) of this section.

(B) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under paragraph (a)(8)(ii) of this section.

(v) Required aisle space. The small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(vi) Arrangements with local authorities.

(A) The small quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(1) A small quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals.

(2) As part of this coordination, the small quantity generator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

(3) Where more than one police or fire department might respond to an emergency, the small quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(B) A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(C) A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

(9) Emergency procedures. The small quantity generator complies with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for

coordinating all emergency response measures specified in paragraph (b)(9)(iv) of this section. This employee is the emergency coordinator.

(ii) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

(A) The name and emergency telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible, and as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. Such containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

(C) In the event of a fire, explosion, or other release that could threaten human health outside the facility or when the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator must immediately notify the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following information:

(1) The name, address, and EPA identification number of the small quantity generator;

(2) Date, time, and type of incident (e.g., spill or fire);

(3) Quantity and type of hazardous waste involved in the incident;

(4) Extent of injuries, if any; and

(5) Estimated quantity and disposition of recovered materials, if any.

(c) Transporting over two hundred (200) miles. A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of two hundred (200) miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on site for two hundred seventy (270) days or less without a permit or without having interim status provided that the generator complies with the conditions of paragraph (b) of this section.

(d) Accumulation time limit extension. A small quantity generator who accumulates hazardous waste for more than one hundred eighty (180) days (or for more than two hundred seventy (270) days if it must transport its waste, or offer its waste for transportation, over a distance of two hundred (200) miles or more) is subject to the requirements of R.61-79.264, 265, 268, and 270 of this chapter unless it has been granted an extension to the one hundred eighty (180)-day (or two hundred seventy (270)-day if applicable) period. Such extension may be granted by the Department if hazardous wastes must remain on site for longer than one hundred eighty (180)

days (or two hundred seventy (270) days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty (30) days may be granted at the discretion of the Department on a case-by-case basis.

(e) Rejected load. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of R.61-79.264.72 or 265.72 may accumulate the returned waste on site in accordance with paragraphs (a)-(d) of this section. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(f) A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with R.61-79.262 subpart L in lieu of R.61-79.262.17.

Revise 61-79.262 to add section 262.17 to read:

262.17. Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of R.61-79.124, 264 through 267, and 270, or the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA, provided that all of the following conditions for exemption are met:

(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than ninety (90) days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply:

(1) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(i) Air emission standards. The applicable requirements of subparts AA, BB, and CC of R.61-79.265;

(ii) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section;

(iii) Compatibility of waste with container. The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(iv) Management of containers.

(A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(v) Inspections. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected.

(vi) Special conditions for accumulation of ignitable and reactive wastes.

(A) Containers holding ignitable or reactive waste must be located at least fifteen (15) meters (50 feet) from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

(B) The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(vii) Special conditions for accumulation of incompatible wastes.

(A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of R.61-79.265 for examples) must not be placed in the same container, unless R.61-79.265.17(b) is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of R.61-79.265 for examples), unless 265.17(b) is complied with.

(C) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(2) Accumulation of hazardous waste in tanks. If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subpart J, except section 265.197(c) of Closure and post-closure care and R.61-79.265.200—Waste analysis and trial tests, as well as the applicable requirements of R.61-79.265 subparts AA, BB, and CC.

(3) Accumulation of hazardous waste on drip pads. If the hazardous waste is placed on drip pads, the large quantity generator must comply with the following:

(i) R.61-79.265 subpart W;

(ii) The large quantity generator must remove all wastes from the drip pad at least once every ninety (90) days. Any hazardous wastes that are removed from the drip pad are then subject to the ninety (90)-day accumulation limit in paragraph (a) of this section and R.61-79.262.15, if the hazardous wastes are being managed in satellite accumulation areas prior to being moved to a central accumulation area; and

(iii) The large quantity generator must maintain on site at the facility the following records readily available for inspection:

(A) A written description of procedures that are followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ninety (90) days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(4) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the large quantity generator must comply with R.61-79.265 subpart DD. The generator must label its containment building with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site, and also in a conspicuous place provide an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704). The generator must also maintain:

(i) The professional engineer certification that the building complies with the design standards specified in R.61-79.265.1101. This certification must be in the generator's files prior to operation of the unit; and

(ii) The following records by use of inventory logs, monitoring equipment, or any other effective means:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety (90) days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the ninety (90) day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every ninety (90) days.

(C) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(5) Labeling and marking of containers and tanks—

(i) Containers. A large quantity generator must mark or label its containers with the following:

(A) The words "Hazardous Waste";

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) Tanks. A large quantity generator accumulating hazardous waste in tanks must do the following:

(A) Mark or label its tanks with the words "Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety

and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within ninety (90) days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within ninety (90) days of first entering; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(6) Emergency procedures. The large quantity generator complies with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(7) Personnel training.

(i)(A) Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

(B) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(C) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

(1) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(2) Key parameters for automatic waste feed cut-off systems;

(3) Communications or alarm systems;

(4) Response to fires or explosions;

(5) Response to groundwater contamination incidents; and

(6) Shutdown of operations.

(D) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the conditions of exemption in this section.

(ii) Facility personnel must successfully complete the program required in paragraph (a)(7)(i) of this section within six (6) months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees must not work in unsupervised positions until they have completed the training standards of paragraph (a)(7)(i) of this section.

(iii) Facility personnel must take part in an annual review of the initial training required in paragraph (a)(7)(i) of this section.

(iv) The large quantity generator must maintain the following documents and records at the facility:

(A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(B) A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skills, education, or other qualifications, and duties of facility personnel assigned to each position;

(C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a)(7)(iv)(A) of this section;

(D) Records that document that the training or job experience, required under paragraphs (a)(7)(i), (ii), and (iii) of this section, has been given to, and completed by, facility personnel.

(v) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three (3) years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(8) Closure. A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(i) Notification for closure of a waste accumulation unit. A large quantity generator must perform one of the following when closing a waste accumulation unit:

(A) Place a notice in the operating record within thirty (30) days after closure identifying the location of the unit within the facility; or

(B) Meet the closure performance standards of paragraph (a)(8)(iii) of this section for container, tank, and containment building waste accumulation units or paragraph (a)(8)(iv) of this section for drip pads and notify the Department following the procedures in paragraph (a)(8)(ii)(B) of this section for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(ii) Notification for closure of the facility.

(A) Notify the Department using Form 8700-12 no later than thirty (30) days prior to closing the facility.

(B) Notify the Department using Form 8700-12 within ninety (90) days after closing the facility that it has complied with the closure performance standards of paragraph (a)(8)(iii) or (iv) of this section. If the facility cannot meet the closure performance standards of paragraph (a)(8)(iii) or (iv) of this section, notify the Department using Form 8700-12 that it will close as a landfill under R.61-79.265.310 of this chapter in the case of a container, tank or containment building unit(s), or for a facility with drip pads, notify using Form 8700-12 that it will close under the standards of R.61-79.265.445(b).

(C) A large quantity generator may request additional time to clean close, but it must notify the Department using form 8700-12 within 75 days after the date provided in paragraph (a)(8)(ii)(A) of this section to request an extension and provide an explanation as to why the additional time is required.

(iii) Closure performance standards for container, tank systems, and containment building waste accumulation units.

(A) At closure, the generator must close the waste accumulation unit or facility in a manner that:

(1) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere.

(2) Removes or decontaminates all contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless R.61-79.261.3(d) applies.

(3) Any hazardous waste generated in the process of closing either the generator's facility or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of R.61-79.262, 263, 265, and 268 of this chapter, including removing any hazardous waste contained in these units within ninety (90) days of generating it and managing these wastes in a C hazardous waste permitted treatment, storage and disposal facility or interim status facility.

(4) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in paragraph (a)(8)(ii)(A)(2) of this section, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (R.61-79.265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in R.61-79.265 subparts G and H.

(iv) Closure performance standards for drip pad waste accumulation units. At closure, the generator must comply with the closure requirements of paragraphs (a)(8)(ii) and (a)(8)(iii)(A)(1) and (3) of this section, and R.61-79.265.445(a) and (b).

(v) The closure requirements of paragraph (a)(8) of this section do not apply to satellite accumulation areas.

(9) Land disposal restrictions. The large quantity generator complies with all applicable requirements under R.61-79.268.

(b) Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than ninety (90) days is subject to the requirements of R.61-79.124, 264 through 268, and 270, and the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA, unless it has been granted an extension to the ninety (90)-day period. Such extension may be granted by the Department if hazardous wastes must remain on site for longer than ninety (90) days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty (30) days may be granted at the discretion of the Department on a case-by-case basis.

(c) Accumulation of F006. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may

accumulate F006 waste on site for more than 90 days, but not more than 180 days without being subject to R.61-79.124, 264 through 267, and 270, and the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA, provided that it complies with all of the following additional conditions for exemption:

(1) The large quantity generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(2) The F006 is legitimately recycled through metals recovery;

(3) No more than twenty thousand (20,000) kilograms of F006 waste is accumulated on site at any one time; and

(4) The F006 waste is managed in accordance with the following:

(i)(A) If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in paragraph (a)(1) of this section; and/or

(B) If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of paragraph (a)(2) of this section; and/or

(C) If the F006 is placed in containment buildings, the large quantity generator must comply with R.61-79.265 subpart DD, and has placed its professional engineer certification that the building complies with the design standards specified in R.61-79.265.1101 in the facility's files prior to operation of the unit. The large quantity generator must maintain the following records:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty (180) days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one hundred eighty (180)-day limit, and documentation that the large quantity generator is complying with the procedures; or

(2) Documentation that the unit is emptied at least once every one hundred eighty (180) days.

(ii) The large quantity generator is exempt from all the requirements in R.61-79.265 subparts G and H, except for those referenced in paragraph (a)(8) of this section.

(iii) The date upon which each period of accumulation begins is clearly marked and must be clearly visible for inspection on each container;

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with:

(A) The words "Hazardous Waste"; and

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

(v) The large quantity generator complies with the requirements in paragraphs (a)(6) and (7) of this section.

(d) F006 transported over two hundred (200) miles. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred (200) miles or more for off-site metals recovery, may accumulate F006 waste on site for more than ninety (90) days, but not more than two hundred seventy (270) days without being subject to R.61-79.124, 264 through 266, 270, and the notification requirements of the SC Hazardous Waste Management Act section 44-56-120 and section 3010 of RCRA, if the large quantity generator complies with all of the conditions for exemption of paragraphs (c)(1) through (4) of this section.

(e) F006 accumulation time extension. A large quantity generator accumulating F006 in accordance with paragraphs (c) and (d) of this section who accumulates F006 waste on site for more than one hundred eighty (180) days (or for more than two hundred seventy (270) days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred (200) miles or more), or who accumulates more than twenty thousand (20,000) kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of R.61-79.124, 264, 265, and 270 of this chapter, and the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA, unless the generator has been granted an extension to the one hundred eighty (180)-day (or two hundred seventy (270)-day if applicable) period or an exception to the twenty thousand (20,000) kilogram accumulation limit. Such extensions and exceptions may be granted by the Department if F006 waste must remain on site for longer than one hundred eighty (180) days (or two hundred seventy (270) days if applicable) or if more than twenty thousand (20,000) kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty (30) days or an exception to the accumulation limit may be granted at the discretion of the Department on a case-by-case basis.

(f) Consolidation of hazardous waste received from very small quantity generators. Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in R.61-79.260.10), without a storage permit or interim status and without complying with the requirements of R.61-79.124, 264 through 268, and 270, and the notification requirements of the SC Hazardous Waste Management Act Section 44-56-120 and section 3010 of RCRA, provided that they comply with the following conditions. “Control,” for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to “control” such generators.

(1) The large quantity generator notifies the Department at least thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA Form 8700-12; and

(i) Identifies on the form the name(s) and site address(es) for the very small quantity generator(s) as well as the name and business telephone number for a contact person for the very small quantity generator(s); and

(ii) Submits an updated Site ID form (EPA Form 8700-12) within thirty (30) days after a change in the name or site address for the very small quantity generator.

(2) The large quantity generator maintains records of shipments for three (3) years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

(3) The large quantity generator complies with the independent requirements identified in section 262.10(a)(1)(iii) and the conditions for exemption in this section for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in paragraph (a)(5) of this section, the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous

waste or with hazardous waste from other very small quantity generators, the large quantity generator must label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

(g) Rejected load. A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of R.61-79.264.72 or 265.72 may accumulate the returned waste on site in accordance with paragraphs (a) and (b) of this section. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

Revise 61-79.262 to add section 262.18 to read:

262.18. EPA identification numbers and renotification for small quantity generators and large quantity generators.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Department.

(b) A generator who has not received an EPA identification number must obtain one by applying to the Department using EPA Form 8700-12. Upon receiving the request, the Department will assign an EPA identification number to the generator.

(c) A generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

(d) Renotification.

(1) A small quantity generator must renotify the Department starting in 2021 and every four (4) years thereafter using EPA Form 8700-12. This renotification must be submitted by September 1st of each year in which renotifications are required.

(2) A large quantity generator must renotify the Department by March 1st of each even-numbered year thereafter using EPA Form 8700-12. A large quantity generator may submit this renotification as part of its Quarterly Reporting required under section 262.41.

(e) A recognized trader must not arrange for import or export of hazardous waste without having received an EPA identification number from the Department.

Revise 61-79.262 Subpart B title to read:

SUBPART B: Manifest Requirements Applicable to Small and Large Quantity Generators

Revise 61-79.262 Subpart C title to read:

SUBPART C: Pre-Transport Requirements Applicable to Small and Large Quantity Generators

Revise 61-79.262.32(b) to add 262.32(b)(1) to 262.32(b)(5) to read:

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

(1) HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

(2) Generator's Name and Address

(3) Generator's EPA Identification Number

(4) Manifest Tracking Number

(5) EPA Hazardous Waste Number(s)

Revise 62-79.262.32 to add 262.32(c) and 262.32(d) to read:

(c) A generator may use a nationally recognized electronic system, such as bar coding, to identify the EPA Hazardous Waste Number(s), as required by paragraph (b)(5) or paragraph (d).

(d) Lab packs that will be incinerated in compliance with section 268.42(c) are not required to be marked with EPA Hazardous Waste Number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

Revise 61-79.262.34 to remove and reserve it:

262.34. [Reserved]

Revise 61-79.262 to add section 262.35 to read:

262.35. Liquids in landfills prohibition.

The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in R.61-79.264.314 and 265.314.

Revise 61-79.262 Subpart D title to read:

SUBPART D: Recordkeeping and Reporting Applicable to Small and Large Quantity Generators

Revise 61-79.262.40(c) to read:

(c) See R.61-79.262.11(f) for recordkeeping requirements for documenting hazardous waste determinations.

Revise 61-79.262.41 to read:

(b) Any generator must submit the information required by paragraph (a) on a form designated by the Department and according to the instructions included with such form. Reporting for exports of hazardous waste is not required on the Report form. A separate annual report requirement is set forth at section 262.83(g) for hazardous waste exporters.

(c) Exports of hazardous waste to foreign countries are not required to be reported on the Quarterly Report form. A separate annual report requirement is set forth at R.61-79.262.83(g) for hazardous waste exporters.

Revise 61-79.262.43 to read:

The Department may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in R.61-79.261.

Revise 61-79.262.44 Introductory; subitems (a) through (d) remain the same, to read:

262.44 Recordkeeping for small quantity generators.

A small quantity generator is subject only to the following independent requirements of this subpart:

Revise 61-79.262.200 to remove the definition of "Central Accumulation Area."

Revise 61-79.262.200 definition for "Trained professional" to read:

"Trained professional" means a person who has completed the applicable RCRA training requirements of R.61-79.262.17 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with R.61-79.262.16 for small quantity generators and very small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

Revise 61-79.262.201 to read:

(a) Large quantity generators and small quantity generators This subpart provides alternative requirements to the requirements in R.61-79.262.11 and 262.15 for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of R.61-79.262.203.

(b) Very small quantity generators. This subpart provides alternative requirements to the conditional exemption in R.61-79.262.14 for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of R.61-79.262.203.

Revise 61-79.262.202 to read:

(a) Large quantity generators and small quantity generators: Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the requirements of R.61-79.262.11 and 262.15.

(b) Very small quantity generators. Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the conditional exemption of R.61-79.262.14.

Revise 61-79.262.203(a) to read:

(a) An eligible academic entity must notify the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA identification number. An eligible academic entity that is a very small quantity generator and does not have an EPA identification number must notify that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on site, as defined by R,61-79.260.10. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA identification number (or site, for very small quantity generators) that is electing to be subject to the requirements of this subpart, and must submit the Site Identification Form before it begins operating under this subpart.

Revise 61-79.262.203(b)(2) to read:

(2) Site EPA Identification Number (except for very small quantity generators).

Revise 61-79.262.204(a) to read:

(a) An eligible academic entity must notify the Department in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to no longer be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of R.61-79.262.11 and 262.15 for small quantity generators and large quantity generators. An eligible academic entity that is a very small quantity generator and does not have an EPA identification number must notify that it is withdrawing from the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in R.61-79.262.14. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for very small quantity generators) that is withdrawing from the requirements of the subpart and must submit the Site Identification Form before it begins operating under the requirements of R.61-79.262.11 and 262.15 for small quantity generators and large quantity generators, or R.61-79.262.14 for very small quantity generators.

Revise 61-79.262.204(b)(2) to read:

(2) Site EPA Identification Number (except for very small quantity generators).

Revise 61-79.262.206(b)(3)(iii) to read:

(iii) When venting of a container is necessary:

Revise 61-79.262.207(d)(2) to read:

(2) Make the hazardous waste determination, pursuant to section 262.11(a) through (d), for unwanted material.

Revise 61-79.262.208(a) to read:

(1) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed twelve (12) months; or

(2) Remove containers of unwanted material from each laboratory within twelve (12) months of each container's accumulation start date.

Revise 61-79.262.208(d)(2) to read:

(2) If a laboratory accumulates more than 1 quart of liquid reactive acutely hazardous unwanted material or more than one (1) kilogram (2.2 pounds) of solid reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

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

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

Revise 61-79.262.209(b) to read:

(b) Very small quantity generators - an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to section 262.11(a) through (d), for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with R.61-79.262.210.

Revise 61-79.262.210(a) to read:

(a) A trained professional must make the hazardous waste determination, pursuant to R.61-79.262.11(a) through (d), before the unwanted material is removed from the laboratory.

Revise 61-79.262.210(b)(3) to read:

(3) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to R.61-79.262.13, in the calendar month that the hazardous waste determination was made.

Revise 61-79.262.210(d)(2) to read:

(2) Very small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in R.61-79.262.14.

Revise 61-79.262.211(c) to read:

(c) The unwanted material becomes subject to the generator accumulation regulations of R.61-79.262.16 for small quantity generators or R.61-79.262.17 for large quantity generators as soon as it arrives in the central accumulation area, except for the "hazardous waste" labeling requirements of sections 262.16(b)(6) and 262.17(a)(5).

Revise 61-79.262.211(d) to read:

(d) A trained professional must determine, pursuant to R.61-79.262.11(a) through (d), if the unwanted material is a hazardous waste within four (4) calendar days of the unwanted materials' arrival at the on-site central accumulation area.

Revise 61-79.262.211(e)(3) to read:

(3) Count the hazardous waste toward the eligible academic entity's generator category, pursuant to R.61-79.262.13 in the calendar month that the hazardous waste determination was made, and

Revise 61-79.262.212(d) to read:

(d) A trained professional must determine, pursuant to R.61-79.262.11(a) through (d), if the unwanted material is a hazardous waste within four (4) calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

Revise 61-79.262.213(a) to read:

(1) If the volume of unwanted material in the laboratory exceeds fifty-five (55) gallons (or one (1) quart of liquid reactive acutely hazardous unwanted material or one (1) kilogram of solid reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within ten (10) calendar days of exceeding fifty-five (55) gallons (or one (1) quart of liquid reactive acutely hazardous unwanted material or one (1) kilogram of solid reactive acutely hazardous unwanted material),

as required by section 262.208. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within thirty (30) calendar days from the start of the laboratory clean-out; and

(2) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in R.61-79.261, subpart D or exhibiting one or more characteristics in R.61-79.261, subpart C) generated solely during the laboratory clean-out toward its hazardous waste generator category, pursuant to R.61-79.262.13. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator category, pursuant to R.61-79.262.13, if it is determined to be hazardous waste; and

(3) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator category under paragraph (a)(2) of this section, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of non-acute hazardous waste (i.e., the very small quantity generator limits as defined in R.61-79.260.10), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

Revise 61-79.262.213(b)(2) to read:

(2) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator category, pursuant to R.61-79.262.13.

Revise 61-79.262.214(b)(5) to read:

(5) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at section 262.11(a) through (d) and R.61-79.262.209 through 262.212).

Revise 61-79.262.216 to read:

(a) Remains subject to the generator requirements of R.61-79.262.11 and 262.15 for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of R.61-79.262, with respect to that hazardous waste; or

(b) Remains subject to the conditional exemption of R.61-79.262.14 for very small quantity generators, with respect to that hazardous waste.

Revise 61-79.262 to add Subpart L—Alternative Standards for Episodic Generation to read:

SUBPART L: Alternative Standards for Episodic Generation

262.230. Applicability.

This subpart is applicable to very small quantity generators and small quantity generators as defined in R.61-79.260.10.

262.231. Definitions for this subpart.

"Episodic event" means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

"Planned episodic event" means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.

"Unplanned episodic event" means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or "acts of nature," such as tornado, hurricane, or flood.

262.232. Conditions for a generator managing hazardous waste from an episodic event.

(a) Very small quantity generator. A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

(1) The very small quantity generator is limited to one (1) episodic event per calendar year, unless a petition is granted under R.61-79.262.233;

(2) Notification. The very small quantity generator must notify the Department no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA Form 8700-12. In the event of an unplanned episodic event, the generator must notify the Department within seventy-two (72) hours of the unplanned event via phone, email, or fax and subsequently submit EPA Form 8700-12. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with R.61-79.262.16(b)(9)(i);

(3) EPA Identification Number. The very small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700-12;

(4) Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(i) Containers. A very small quantity generator accumulating in containers must mark or label its containers with the following:

(A) The words "Episodic Hazardous Waste";

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

(A) Mark or label the tank with the words "Episodic Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard

communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each episodic event begins; and

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(iii) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

(A) Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste; and

(B) Tanks must be in good condition and compatible with the hazardous waste accumulated therein. Tanks must have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(5) The very small quantity generator must comply with the hazardous waste manifest provisions of R.61-79.262 subpart B when it sends its episodic event hazardous waste off site to a designated facility, as defined in R.61-79.260.10.

(6) The very small quantity generator has up to sixty (60) calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in R.61-79.260.10.

(7) Very small quantity generators must maintain the following records for three (3) years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the RCRA-designated facility that received the hazardous waste;

(v) Name(s) of hazardous waste transporters; and

(vi) An approval letter from the Department if the generator petitioned to conduct one (1) additional episodic event per calendar year.

(b) Small quantity generators. A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(1) The small quantity generator is limited to one (1) episodic event per calendar year unless a petition is granted under R.61-79.262.233;

(2) Notification. The small quantity generator must notify the Department no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA Form 8700-12. In the event of an unplanned episodic event, the small quantity generator must notify the Department within seventy-two (72) hours of the unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700-12. The small quantity generator shall include the start date and end date of the episodic event and the reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with twenty-four (24)-hour telephone access to discuss the notification submittal or respond to emergency;

(3) EPA Identification Number. The small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA Form 8700-12; and

(4) Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(i) Containers. A small quantity generator accumulating episodic hazardous waste in containers must meet the standards at R.61-79.262.16(b)(2) and must mark or label its containers with the following:

(A) The words “Episodic Hazardous Waste”;

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(C) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A small quantity generator accumulating episodic hazardous waste in tanks must meet the standards at section 262.16(b)(3) and must do the following:

(A) Mark or label its tank with the words “Episodic Hazardous Waste”;

(B) Mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each period of accumulation begins and ends; and

(D) Keep inventory logs or records with the above information on site and available for inspection.

(5) The small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a designated facility (as defined by R.61-79.260.10) within sixty (60) calendar days from the start of the episodic event.

(6) The small quantity generator must maintain the following records for three (3) years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility (as defined by R.61-79.260.10) that received the hazardous waste;

(v) Name(s) of hazardous waste transporters; and

(vi) An approval letter from the Department if the generator petitioned to conduct one (1) additional episodic event per calendar year.

262.233. Petition to manage one additional episodic event per calendar year.

(a) A generator may petition the Department for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(1) If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition the Department for an additional unplanned episodic event in that calendar year within seventy-two (72) hours of the unplanned event.

(2) If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the Department for an additional planned episodic event in that calendar year.

(b) The petition must include the following:

(1) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(2) The estimated amount of hazardous waste to be managed from the event;

(3) How the hazardous waste is to be managed;

(4) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event—not to exceed sixty (60) days; and

(5) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

(c) The petition must be made to the Department in writing, either on paper or electronically.

(d) The generator must retain written approval in its records for three (3) years from the date the episodic event ended.

Revise 61-79.262 to add Subpart M—Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators to read:

SUBPART M: Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators

262.250. Applicability.

The regulations of this subpart apply to those areas of a large quantity generator where hazardous waste is generated or accumulated on site.

262.251. Maintenance and operation of facility.

A large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

262.252. Required equipment.

All areas deemed applicable by R.61-79.262.250 must be equipped with the items in paragraphs (a) through (d) of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual hazardous waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A large quantity generator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

262.253. Testing and maintenance of equipment.

All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

262.254. Access to communications or alarm system.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under R.61-79.262.252.

(b) In the event there is only one employee on the premises while the facility is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available

at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under R.61-79.262.252.

262.255. Required aisle space.

The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

262.256. Arrangements with local authorities.

(a) The large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(1) A large quantity generator attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the large quantity generator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(3) Where more than one police or fire department might respond to an emergency, the large quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(b) The large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(c) A facility possessing twenty-four (24)-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the operating record.

262.260. Purpose and implementation of contingency plan.

(a) A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

262.261. Content of contingency plan.

(a) The contingency plan must describe the actions facility personnel must take to comply with R.61-79.262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(b) If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part. The generator may develop one contingency plan that meets all regulatory standards. The Department recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan").

(c) The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to R.61-79.262.256.

(d) The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see R.61-79.262.264), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates twenty-four (24) hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

(e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

262.262. Copies of contingency plan.

A copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator and—

(a) The large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

(b) A large quantity generator that first becomes subject to these provisions after May 30, 2017, or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the following elements:

(1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each hazardous waste present at any one time (e.g., toxic paint wastes, spent ignitable solvent, corrosive acid);

(2) The estimated maximum amount of each hazardous waste that may be present at any one time;

(3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;

(4) A map of the facility showing where hazardous wastes are generated, accumulated, and treated and routes for accessing these wastes;

(5) A street map of the facility in relation to surrounding businesses, schools, and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(6) The locations of water supply (e.g., fire hydrant and its flow rate);

(7) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and

(8) The name of the emergency coordinator(s) and twenty-four (24) hour, seven (7)-days-a-week emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

(c) Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.

262.263. Amendment of contingency plan.

The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(a) Applicable regulations are revised;

(b) The plan fails in an emergency;

(c) The generator facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

262.264. Emergency coordinator.

At all times, there must be at least one employee either on the generator's premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in R.61-79.262.265. Although responsibilities may vary depending on factors such as type and variety of hazardous waste(s) handled by the facility, as well as type and complexity of the facility, this emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous waste handled, the location of all records within the facility, and the facility's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

262.265. Emergency procedures.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(1) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(2) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of the facility records or manifests and, if necessary, by chemical analysis.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

(1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of the generator;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health, or the environment, outside the facility.

(e) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

(f) If the generator stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release,

fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with section 261.3(c) or (d), that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable requirements and conditions for exemption in R.61-79.262, 263, and 265.

(h) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(1) No hazardous waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen (15) days after the incident, the generator must submit a written report on the incident to the Department. The report must include:

(1) Name, address, and telephone number of the generator;

(2) Date, time, and type of incident (e.g., fire, explosion);

(3) Name and quantity of material(s) involved;

(4) The extent of injuries, if any;

(5) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(6) Estimated quantity and disposition of recovered material that resulted from the incident.

Revise 61-79.263.12 to add 263.12(a) to 263.12(b) to read:

(a) A transporter who stores manifested shipments of hazardous waste in containers meeting the independent requirements of R.61-79.262.30 at a transfer facility for a period of ten (10) days or less is not subject to regulation under R.61-79.264, 265, 268, and 270 with respect to the storage of those wastes.

(b) When consolidating the contents of two or more containers with the same hazardous waste into a new container, or when combining and consolidating two different hazardous wastes that are compatible with each other, the transporter must mark its containers of one hundred nineteen (119) gallons or less with the following information:

(1) The words “Hazardous Waste” and

(2) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in R.61-79.261 in subparts C and D, or in compliance with section 262.32(c).

Revise 61-79.264.1(g)(1) to read:

(1) The owner or operator of a facility permitted, licensed, or registered by the Department to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded under R.61-79.261.14;

Revise 61-79.264.1(g)(3) to read:

(3) A generator accumulating waste onsite in compliance with R.61-79.262.14, 262.15, 262.16, or 262.17;

Revise 61-79.264.15(b)(4) to remove the comment and to read:

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in R.61-79.264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 where applicable. R.61-79.270 requires the inspection schedule to be submitted with part B of the permit application. The Department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Department may modify or amend the schedule as may be necessary.

Revise 61-79.264.71(c) to remove the comment and to read:

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of R.61-79.262. The provisions of sections 262.15, 262.16, and 262.17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of sections 262.15, 262.16, and 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under section 262.17(f).

Revise 61-79.264.174 to remove comment and to read:

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. See sections 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.

Revise 61-79.264.1030(b)(2) to read:

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of R.61-79.262.17 (i.e., a hazardous waste recycling unit that is not a ninety (90)-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 270, or

Revise 61-79.264.1050(b)(3) to read:

(3) A unit that is exempt from permitting under the provisions of R.61-79.262.17 (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 261.6.

Revise 61-79.265.1(c)(5) to read:

(5) The owner or operator of a facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by R.61-79.262.14;

Revise 61-79.265.1(c)(7) to read:

(7) A generator accumulating waste onsite in compliance with applicable conditions for exemption in R.61-79.262.14 through 262.17, and R.61-79.262 subparts K and L, except to the extent the requirements of this R.61-79.262 are included in those sections and subparts;

Revise 61-79.265.71(c) to remove comment and to read:

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of part 262. The provisions of R.61-79.262.15, 262.16, and 262.17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of R.61-79.262.15, 262.16, and 262.17 only apply to owners or operators who are shipping hazardous waste which they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under section 262.17(f).

Revise 61-79.265.174 to remove comment and to read:

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See R.61-79.265.171 for remedial action required if deterioration or leaks are detected.

Revise 61-79.265.201 to remove and reserve it:

265.201. [Reserved]

Revise 61-79.265.1030(b)(2) and (b)(3) to read:

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of R.61-79.262.17 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of part 270, or

(3) A unit that is exempt from permitting under the provisions of R.61-79.262.17 (i.e., a "90-day" tank or container) and is not a recycling unit under the requirements of 261.6.

Revise 61-79.265.1050(b)(2) and (b)(3) to read:

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of R.61-79.262.17 (i.e., a hazardous waste recycling unit that is not a ninety (90)-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of part 270, or

(3) A unit that is exempt from permitting under the provisions of R.61-79.262.17 (i.e., a "ninety (90)-day" tank or container) and is not a recycling unit under the provisions of 261.6.

Revise 61-79.266.255(a) to read:

(a) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections of parts 260 through 271, and the time period for accumulation of a hazardous waste as specified in R.61-79.262.16 or 262.17 begins.

Revise 61-79.268.1(e)(1) to read:

(1) Wastes generated by very small quantity generators, as defined in R.61-79.260.10;

Revise 61-79.268.7(a)(5) to read:

(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under R.61-79.262.15, 262.16, and 262.17 to meet applicable LDR treatment standards found at 268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, 268.45, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

Revise 61-79.268.50(a)(1) to read:

(1) A generator stores such wastes in tanks, containers, or containment buildings onsite solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in R.61-79.262.16 and 262.17 and R.61-79.264 and 265.

Revise 61-79.268.50(a)(2) to add 268.50(a)(2)(i)(A) to 268.50(a)(2)(i)(D) to read:

(i) Each container is clearly marked to identify its contents and with:

(A) The words "Hazardous Waste";

(B) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in R.61-79.261 subparts C and D; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s);

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristics(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(D) The date each period of accumulation begins.

Revise 61-79.270.1(a)(3) to read:

(3) Technical regulations. The RCRA permit program has separate additional regulations that contain technical requirements. These separate regulations are used by permit issuing authorities to determine what requirements must be placed in permits if they are issued. These separate regulations are located in R.61-79.264, 266, 267, and 268.

Revise 61-79.270.1(c)(2) to read:

(2) Specific exclusions and exemptions. The following persons are among those who are not required to obtain a RCRA permit under these regulations:

Revise 61-79.270.1(c)(2)(i) to read:

(i) Generators who accumulate hazardous waste onsite in compliance with all of the conditions for exemption provided in R.61-79.262.14, 262.15, 262.16, and 262.17.

Revise 61-79.270.1(c)(2)(iii) to read:

(iii) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this Part by R.61-79.261.4 or 262.14 (very small quantity generator exemption).

Revise 61-79.270.42(l) to reserve:

(l) [Reserved]

Revise 61-79.270.42 Appendix I to 270.42—Classification of Permit Modification to remove and reserve:

O. Burden Reduction	
1. [Reserved]	
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to section 264.52(b)	
3. Changes to recordkeeping and reporting requirements pursuant to: sections 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5)	
4. Changes to inspection frequency for tank systems pursuant to section 264.195(b)	
5. Changes to detection and compliance monitoring program pursuant to sections 26498(d), (g)(2), and (g)(3), 264.99(f), and (g)	

Revise 61-79.273.8 section heading to read:

273.8. Applicability—household and very small quantity generator waste.

Revise 61-79.273.8(a)(2) to read:

(2) Very small quantity generator wastes that are exempt under R.61-79.262.14 and are also of the same type as the universal wastes defined at 273.9.

Revise 61-79.273.81(b) to read:

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities

Fiscal Impact Statement:

The amendments 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 requirements of this regulation.

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: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to realize the benefits of and maintain state consistency with the EPA's November 28, 2016, amendments to 40 CFR 260 through 279.

Legal Authority: 1976 Code Section 44-56-30.

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 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Department amends R.61-79 to adopt the EPA's Hazardous Waste Generator Improvements Rule, published on November 28, 2016, at 81 FR 85732-85829. The rule amends the existing hazardous waste generator regulatory program by reorganizing the hazardous waste generator regulations to improve their usability by the regulated community. This rule clarifies how the RCRA hazardous waste generator regulatory program works and addresses gaps in the existing regulations to strengthen environmental protections. This rule provides greater flexibility for generators to manage hazardous waste in a cost-effective and protective manner, and makes technical corrections and changes to address inadvertent errors and remove outdated references to programs that no longer exist. While the majority of the rule is equivalent to current state regulations and optional for state adoption, several provisions are more stringent and must be adopted by the Department to maintain federal program authorization. Due to the interrelated nature of the equivalent provisions and the more stringent provisions, the Department adopts the rule in a single drafting that requires General Assembly review.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from this revision. There will likely be a slight increase in costs to the regulated community for compliance from this revision. The amendments to R.61-79 reorganize the hazardous waste generator regulations to improve their usability by the regulated community, provide a better understanding of how the RCRA hazardous waste generator regulatory program works, address gaps in existing regulations to strengthen environmental protections, provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner, and make technical corrections to address inadvertent errors and remove obsolete references to programs that no longer exist.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The revision to R.61-79 provides continued protection of the environment and public health, as indicated above.

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

If the regulation is not implemented, there will be a detrimental effect on the environment and public health because the South Carolina would not be implementing or realizing the benefits of the EPA's Hazardous Waste Generator Improvements Rule.

Statement of Rationale:

R.61-79 contains requirements for hazardous waste management, including identification of waste, standards for generators, transporters, and owners/operators of treatment, storage, and disposal ("TSD") facilities, procedures for permits for TSD facilities, investigation and cleanup of hazardous waste; and closure and post-closure requirements. As an authorized state program, the regulation must be equivalent to and consistent with the U.S. EPA's RCRA regulations, 42 U.S.C. Sections 6901 et seq. The EPA periodically promulgates regulations that are either mandatory for authorized state programs to adopt or maintain program equivalency or are optional for states because the changes are less stringent than the current federal regulations. While the majority of the EPA's Hazardous Waste Generator Improvements Rule is equivalent to current state regulations and optional for state adoption, several provisions are more stringent and must be adopted by the Department to maintain federal program authorization. Due to the interrelated nature of the equivalent provisions and the more stringent provisions, the Department has adopted the rule in a single drafting that required General Assembly review.

Document No. 4838
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 48-5-10 et seq.

61-67.1. Requirements for State Water Pollution Control Revolving Fund Loan Assistance.

Synopsis:

The Department of Health and Environmental Control ("Department") repeals R.61-67.1. The regulation describes the process the Department and the former South Carolina Budget and Control Board followed in administering the State Water Pollution Revolving Fund received in federal grants from the Environmental Protection Agency ("EPA"). In 1992, the General Assembly repealed S.C. Code Section 48-6-10 et seq. and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (S.C. Code Section 48-5-10 et seq.). Passage of the South Carolina Water Quality Revolving Fund Authority Act ("Act") has rendered R.61-67.1 obsolete. The Act provides 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 program and federal grants received as supplements to the revolving funds from the EPA. The South Carolina Water Quality Revolving Fund Authority comprises the members of the State Fiscal Accountability Authority, with administrative and implementation support from the South Carolina Rural Infrastructure Authority ("RIA").

Repeal of the regulation will have no impact or implications for the current administration and implementation of the South Carolina Clean Water State Revolving Fund ("CWSRF"). The CWSRF, like its predecessor, the State Water Pollution Revolving Fund under the repealed Title 48, Chapter 6, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The Department and RIA are able to effectively administer and implement the state revolving funds program using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this repeal.

The Department had a Notice of Drafting published in the June 22, 2018, *South Carolina State Register*.

Section-by-Section Discussion of Repeal:

Regulation 61-67.1 is repealed in its entirety as it is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6 of the South Carolina Code). Please see the Statement of Need and Reasonableness herein.

Instructions:

Repeal R.61-67.1, Requirements for State Water Pollution Revolving Fund Loan Assistance, in the South Carolina Code of Regulations.

Text:

61-67.1. [Repealed].

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance.

Purpose: The Department repeals R.61-67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance. This regulation is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6 of the South Carolina Code). 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).

Legal Authority: 1976 Code Sections 48-5-10 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 repeal. 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 repeal and any associated information.

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

In the interest of good government and efficiency, the Department repeals R.61-67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance. The regulation describes the process the Department of Health and Environmental Control ("Department") and the former South Carolina Budget and Control Board followed in administering the State Water Pollution Revolving Fund received in federal grants from the Environmental Protection Agency ("EPA"). In 1992, the General Assembly repealed S.C. Code Section 48-6-10 et seq. and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (S.C. Code Section 48-5-10 et seq.). Passage of the South Carolina Water Quality Revolving Fund Authority Act ("Act") has rendered R.61-67.1 obsolete. The Act provides 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 program and federal grants received as supplements to the revolving funds from the EPA. The South Carolina Water Quality Revolving Fund Authority comprises the members of the State Fiscal Accountability

Authority, with administrative and implementation support from the South Carolina Rural Infrastructure Authority ("RIA").

In accordance with the Act, the State Water Pollution Revolving Fund ("SRF") authorized under the former statute (Title 48, Chapter 6) remains in existence and is now referred to as the Clean Water State Revolving Fund ("CWSRF"). The CWSRF, like the former State Water Pollution Revolving Fund, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The General Assembly amended Title 48, Chapter 5 in 1997 to include the Drinking Water State Revolving Fund ("DWSRF"), which provides low interest loans to public utilities and local governments for public drinking water infrastructure projects. The 1987 amendments to the Federal Water Pollution Act, otherwise known as the Clean Water Act, authorized federal funding for the CWSRF and the former State Water Pollution Revolving Fund. The 1996 amendments to the Safe Drinking Water Act authorized federal funding for the DWSRF. The CWSRF and DWSRF are revolving funds because they receive repayments and interest from the loans made from the funds. Additional money comes into the funds through interest on investments and annual federal grants received from EPA. Repeal of the regulation will have no impact or implications for the current administration and implementation of the CWSRF or DWSRF.

The Department does not propose replacing this regulation with a new regulation. The Department and RIA are able to effectively administer and implement the SRF program using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

DETERMINATION OF COSTS AND BENEFITS:

The Department anticipates no fiscal or economic impact on the state or its political subdivisions and the regulated community by the repeal of this regulation. Repeal of the regulation will have no impact or implications for the current administration and implementation of the South Carolina CWSRF. The CWSRF, like its predecessor, the State Water Pollution Revolving Fund under the repealed Title 48, Chapter 6, provides low interest loans to public utilities and local governments for wastewater and stormwater infrastructure projects. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Repealing the regulation will have no effect on the environment and public health. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

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

Repealing R.61-67.1 has no legal effect, as it has been obsolete since the repeal of S.C. Code Section 48-6-10 et seq.

Statement of Rationale:

R.61-67.1 is repealed as it is obsolete due to repeal of the original authorizing statute (Title 48, Chapter 6). 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). The Department does not propose replacing this regulation with a new regulation. The Department and RIA are able to effectively administer and implement the CWSRF and DWSRF using the state statute, Title 48, Chapter 5, and federal laws, regulations, and grant requirements that govern the use of the funds. Other existing state laws and regulations also are used to implement the program such as environmental permitting regulations that govern the design and construction of wastewater and drinking water infrastructure projects.

Document No. 4842
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-1-140(2), 44-1-150, and 44-1-180

61-25. Retail Food Establishments.
61-37. Retail Food Establishment Inspection Fees.

Synopsis:

The intent of R.61-25, Retail Food Establishments, is to safeguard public health and provide consumers safe, unadulterated food and food products at the retail level. This regulation governs restaurants, grocery stores, school cafeterias, and other establishments where food is prepared and served to the public. R.61-25 was last amended in 2014.

The amendments herein will enable the Department of Health and Environmental Control ("Department" or "DHEC"), through regulation, to incorporate standards of the 2017 United States Food and Drug Administration ("FDA") Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers practical, science-based guidance that addresses the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. The national Conference for Food Protection, comprised of food safety regulators, food scientists, industry representatives, and members of academia, amends the FDA Food Code every two (2) years and publishes it in full every four (4) years.

These amendments also include revisions to selected sections of R.61-25 to reflect the current business models of the food service industry based on comments and suggestions from the regulated community.

The amendments, furthermore, include combining R.61-25 with revised provisions of R.61-37, Retail Food Establishment Inspection Fees, which was last amended in 2002. Specifically, the Department revises fee schedules currently residing in R.61-37, places the fee schedules in R.61-25, and repeals R.61-37. This provides the retail food industry with one streamlined regulation, while allowing for necessary program support through an increase in inspection fees.

The amendments also include other changes as deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation. These changes include, but are not limited to, stylistic changes, updates to definitions and exemptions, corrections for clarity, readability, grammar, punctuation, references, and codification, and overall improvement of the text of the regulation.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments and the repeal.

The Department had a Notice of Drafting published in the August 24, 2018, *South Carolina State Register*.

Changes made at the request of the House Regulations and Administrative Procedures Committee by letter dated April 9, 2019:

Removed proposed amendment to Section 2-402.11(A) that indicated beard restraints are required when a beard is not closely shaven.

Removed proposed amendment to Section 3-602.11 that indicated a label or placard is required to include a statement that no major allergens are present.

Section-by-Section Discussion of Final Regulation submitted by the Department of Health and Environmental Control on January 8, 2019, for legislative review:

R.61-25

In Chapters 1 through 9 of the amendments to R.61-25, capitalization, punctuation, spelling, and grammatical errors have been corrected. The superscripts for Priority (P) and Priority Foundation (Pf), as found in the FDA Food Code, have been added to all relevant citations. The word "Section" has been added to references in all citations where it was missing for clarity. To improve readability, all subsection titles have been bolded. For brevity and space, these modifications are not listed.

In Contents

Amended: All chapter titles were changed from all capitalization to capitalizing the first letter of each word for consistency.

Added: New section 4-303 "Cleaning Agents and Sanitizers."

Renamed Sections 9-2 and 9-11 of Chapter 9 to more accurately fit the content of these revised sections.

In Chapter 1, Purpose and Definition, the following changes apply:

Section 1-2

Deleted: (19) "Conditional employee," as the term is not used in the regulation; renumbered remaining items.

Amended: (35) to add "work" to the description of a person under a contractual agreement.

Amended: (54) "Hermetically sealed container" to add the word "commercial" to conform to the Food Code.

Added: (58) "Intact meat" from the 2017 FDA Food Code.

Amended: (73) "Nuisance" to clarify that premises is included but not limited to the structure.

Amended: (79)(b) "Personal care items" to remove unnecessary wording of "and other such items".

Amended: (106) "Retail food establishment" by changing "any" to "an" to match the intent of exemptions in Chapter 8-103.12(A) and by deleting "temporary food establishments" from the examples as they are not issued a retail food establishment permit.

Amended: (112) "Service animal" to clarify that the ADA service animal definition does not include "comfort animals" or any other type of support animal not recognized as a service animal under the ADA and its implementing regulations.

Amended: (117) to correct denotations of the E.coli strains listed.

Amended: (127)(b)(ii) Time/temperature control for safety food (TCS) Tables A and B to match the tables and wording in the 2017 FDA Food Code and include the term PA for product assessment.

Amended: (132)(a)(i) and (b)(i) to add "the violation of " for clarity and that Priority and Priority Foundation violations are denoted in the body of the regulation with superscript of either "P" or "Pf."

In Chapter 2, Management and Personnel, the following changes apply:

Section 2-1

Added: 2-102.11(C)(9) requiring knowledge of major allergens and renumbered remaining items.

Amended: 2-102.12 to add "and Food Handler Certification" to title.

Amended: 2-102.12(A) to add requirement for the certified food protection manager to be present at the facility frequently and to be responsible for ensuring employee health policies are implemented.

Added: 2-102.12(B) requiring that at all times during food service operations a person in charge with a Food Handler Certification be on duty and renumbered remaining items.

Added: 2-103.11(I) to supplement the duties of the person in charge from the 2017 FDA Food Code and renumbered remaining items.

Section 2-2

Amended: 2-201.11 Section title to add "Permit Holder."

Amended: 2-201.11(A) to remove "person in charge" and replace with "permit holder." Added that the food employee is to report illness to the person in charge.

Amended: 2-201.11(B)-(E) by striking existing (B) through (D) and replacing them with new (B) through (E) to conform to the 2017 FDA Food Code. This section provides guidance to industry on identification and reporting of illnesses.

Amended: 2-201.12 to add all of that section from the 2017 FDA Food Code not adopted from the 2013 FDA Food Code. This section provides clear guidance to industry on managing exclusion and restrictions of ill workers.

Added: 2-201.13 to conform to the 2017 FDA Food Code. This section provides clear guidance to industry on how to manage reinstating excluded and restricted ill workers.

Section 2-3

Amended: 2-203.11(A) to delete duplicative "on their hands and arms".

Section 2-4

Added: 2-401.13 Use of Bandages, Finger Cots, or Finger Stalls from the 2017 FDA Food Code.

Amended: 2-403.11 to include 9-3 "Outdoor Pet Dining."

Section 2-5

Amended: 2-501.11 to require that vomiting and diarrheal event clean-up procedures be in writing.

In Chapter 3, Food, the following changes apply:

Section 3-2

Amended: 3-201.11(E)(2) to delete written buyer specifications as the new definition of “intact beef” now addresses this need.

Amended: 3-202.12 to correct the quoted CFR reference and delete “or Pesticide Residues” that is not part of the title of that section.

Section 3-3

Amended: 3-302.11(A) to correct reference from (c) to (d) and to add fruits and vegetables to the list of foods that must be separated from raw animal foods during storage, preparation, holding, and display.

Amended: 3-302.15 to correct the title of the quoted CFR reference.

Section 3-4

Amended: 3-304.11, 3-304.15 and 3-304.17 to add the word “Section” to references for clarity.

Amended: 3-401.11(A)(1)(b) to add “intact” description to “meat.”

Amended: 3-401.11(A)(2)-(3) to change required cooking time as per 2017 FDA Food Code.

Amended: 3-401.11(B)(1)-(2) to update language and the oven cooking Tables 3.2 and 3.3 to comport with the 2017 FDA Food Code.

Amended: 3-401.13 to change "fruits and vegetables” to the more inclusive “plant foods.”

Amended: 3-404.11(A) to reflect the entire section, not just (B)-(E).

Section 3-5

Added: 3-502.11(H) to clarify that a HACCP plan is not required for special processes that are for flavor enhancement only. A written statement must be provided indicating foods to be enhanced and food safety measures taken.

Amended: 3-502.12(B) to correct reference of (B) to (C).

Amended: 3-502.12(C) to add the requirement for a label indicating that fish must be kept frozen until time of use.

Amended: 3-502.12(D)(1) and (E)(2) to correct reference of (B) to (C).

Section 3-6

Added: 3-602.11 (B)-(D) These provisions specify labeling requirements from the 2017 FDA Food Code providing for allergen labeling on packaged “grab and go” foods where there is no interaction with a server.

Labeling will not apply to takeout or delivered food. The requirement allows the consumer to be aware of allergens present.

In Chapter 4, Equipment, Utensils, and Linens, the following changes apply:

Section 4-1

Amended: 4-101.17 to correct internal references, allow single use of cedar cooking planks, and move the allowance of wicker baskets when suitably lined to (F).

Section 4-2

Amended: 4-204.16 to change “shall not” to “may not.”

Section 4-3

Added: 4-303.11 This is a new section on cleaning agents and sanitizers from the 2017 FDA Food Code. Clarifies that both must be present and available for use during operations.

Section 4-4

Amended: 4-402.11 to add “in place” to clarify the term “fixed”.

Amended: 4-501.114(F) to correct reference from (C) to (A)-(D).

Amended: 4-502.12 to add the word “Section” to reference for clarity.

Amended: 4-602.11(D)(2)(a) to add degrees to temperatures in chart.

Amended: 4-602.11(D) to add new subsections (4) and (6) on cleaning schedules previously not included. Clarifies when certain equipment must be cleaned.

Amended: 4-603.15(D) to add “in place” for clarity.

Amended: 4-903.11(A) and (D) to provide new allowance for storage of packaged food on pallets less than 6” off floor from the 2017 FDA Food Code.

In Chapter 5, Water, Plumbing, and Waste, the following changes apply:

Section 5-1

Amended: 5-103.11(B) to remove the requirement for separate hot water systems for food preparation areas to allow for more flexibility in system design. Hot water systems should meet the local plumbing requirements and are evaluated operationally by the Department.

Section 5-2

Amended: 5-202.14 to clarify that an internal to the building water supply backflow preventer needs to be ASSE certified.

Amended: 5-203.11 to clarify language that the number of handsinks required is related to the size and scope of the food service operation.

Section 5-3

Amended: 5-303.13 to correct the title to this subsection.

Section 5-4

Amended: 5-402.12 to add "areas" after food preparation in all references as needed for better clarity and readability.

Section 5-5

Amended: 5-501.111 to add "receptacles" to the requirement for clarity.

In Chapter 6, Physical Facilities, the following changes apply:

Section 6-2

Amended: 6-202.14 by adding "or for a public access restroom, an alcove opening as approved by local building codes" to allow for the industry standard of using alcove openings and to harmonize with building codes.

Amended: 6-202.15(A)(3) by adding "tight-fitting" to the requirement for outer doors to comport with the current FDA Food Code.

Amended: 6-202.15(D) removed "temporary food establishment" as it was redundant to information in Section 9-8 Temporary Food Service Establishments.

In Chapter 7, Poisonous or Toxic Materials, the following changes apply:

Section 7-2

Amended: 7-202.12(A)(2)-(4) to add certification requirements for pesticide applicators from the 2017 FDA Food Code at the request of S.C. pesticide regulators.

Amended: 7-204.12(A) to add clarification from the 2017 FDA Food Code regarding chemicals used in treatment, storage, and processing of fruits and vegetables.

Deleted: 7-204.12(B) to remove provision on the use of ozone as an antimicrobial agent to match deletion in 2017 FDA Food Code.

In Chapter 8, Compliance and Enforcement, the following changes apply:

Section 8-2

Amended: 8-201.14, "contents of a HACCP plan" section, to include reorganizing existing language and adding clarified sections (A)-(C), (E), and (F) from 2017 FDA Food Code regarding the plan to be submitted and what needs to be submitted as part of the flow diagram and supporting documents.

Amended: 8-202.14(D)(4) added "each" before "critical control point" to provide clarity.

Section 8-3

Amended: 8-301.12(A)(19) to clarify introductory language and by adding (g) to allow the Department to make risk-based decisions for permit exemptions for additional non-time/temperature control for safety foods that use a low-risk food process.

Added: 8-301.12(A)(20) to extend permit exemption to include individuals preparing and selling additional non-time temperature control for food safety foods ("cottage food" items such as jams/jellies/dried seasonings) from their homes and renumbered remaining items.

Amended: 8-301.12(A)(21) to remove restriction on using a blender to make single-serve smoothies with additional non-time temperature control for food safety food ingredients in (b) and to add new (g)-(h), exempting time-controlled waffle/funnel cake/mini donut mix for hotel breakfast service and roadside sale.

Amended: 8-301.12(A)(22) to delete "Vending machines" from (22) and moved them to new (23).

Added: 8-301.12(A)(23) to separately address exempt vending machines (moved from (22).

Added: 8-301.12(C) to clarify that operations that are exempt from permit requirements are subject to the Department's authority to investigate complaints as necessary to protect the public from food safety related health risk.

Amended: 8-302.13(D). As part of combining R.61-37 into this regulation, the Department has added a new $100.00 fee for first-time permit/preoperational inspections in addition to the annual inspection fee.

Amended: 8-303.20(A)(1) through (A)(6) to reorganize and clarify how long the new owner has to make an application, pay fees, and achieve compliance at an inspection. This includes: deleting 8-303.20(A)(1)(a) and (A)(1)(b); adding a new paragraph (A)(2) and renumbering the following paragraphs; amending 8-303.20(A)(3)(b) to correct reference from 8-302.12 to 8-303.10; amending 8-303.20(A)(3)(c) to clarify when the facility will be deemed to be operating without a permit; amending 8-303.20(A)(4) to clarify that the Department will conduct an inspection to determine compliance after receiving a complete application; adding 8-303.20(A)(5) and (6), which clarify the implications of failing to submit a complete and timely application, pay fees, or obtain compliance at the permit inspection, and when the facility will be deemed operating without a permit; and renumbering remaining items.

Added: 8-304.11(A)(3). As part of combining R.61-37 into this regulation, added the fee renewal requirement and scale and other material information currently contained in R.61-37. The fee scale has been increased to provide for necessary support of the program.

Amended: 8-304.11(A)(4) to remove requirement to maintain a copy of the regulation and instead require access to and knowledge of the regulation.

Added: 8-304.11(A)(5) to require a facility to operate at least 15 consecutive days a year or one day a week for 15 weeks to retain its permit.

Added: 8-304.11(B)(8) to require the permit holder to notify the Department when the billing or mailing address changes.

Added: 8-304.11(B)(9) to require the permit holder to notify the Department of a change in the capacity of a shared use kitchen.

Amended: 8-304.11(C) to delete the word "also" for grammatical correctness.

Amended: 8-304.11(D) and (E) to update internal reference to "(B) and (C)" instead of "(A) and (B)."

Section 8-4

Amended: 8-402.20(C) to clarify that the Department may obtain a warrant if access is denied.

Amended: 8-402.40 to clarify Department enforcement options when a facility denies the Department access to the retail food establishment.

Amended: 8-403.10(E) to prohibit covering, obscuring, defacing, relocating, or removing the posted food grade.

Amended: 8-405.11 (A)(3) and (C)(4) added "from the date of the inspection" to provide clarity of when follow up would occur.

Added: 8-404.11(F) from 2017 FDA Food Code allowing a facility to continue to operate in emergency situations if it has a written emergency operating plan approved by the Department.

Amended: 8-405.11(A)(1) and (A)(3) to clarify that the ten (10)-day period is from the date of the inspection.

Amended: 8-405.11(A)(2) to require all core violations, regardless of grade, to be corrected as soon as possible.

Section 8-5

Amended: 8-501.20 to remove references to conditional employees as they are not addressed in other parts of the regulation.

Section 8-7

Deleted: 8-701.11 "Implementation of Regulations," as none of the additions will require delayed implementation, and all previously delayed items are now in regulatory effect.

Section 8-9

Amended: 8-904 to correct the title to read "Permit Suspension."

Amended: 8-904.10 to correct the title to read "Conditions Warranting Summary Suspension."

Amended: 8-904.30 to correct the title to read "Contents of the Summary Suspension Notice."

Amended: 8-904.50 to correct the title to read "Term of Summary Suspension, Reinstatement of Permit."

Amended: 8-904.110(A)(5) to clarify the Department's authority to suspend a facility's permit for failure to notify the Department of facility changes.

Amended: 8-904.110(A)(7) to add "obscuring" to current wording.

Amended: 8-904.110(A)(9) to clarify the Department's authority to suspend a permit upon a facility's failure to pay a civil penalty required by a Department order.

Amended: 8-904.110(A)(10) by adding new language to reflect the requirement to operate for fifteen (15)consecutive days annually or at least one (1) day every week for at least fifteen (15) weeks and renumbered existing (10) to (11).

Added: 8-904.110(B)(6) to authorize the Department to revoke a facility's permit upon a failure to operate as a retail food establishment at least fifteen (15) consecutive days annually or at least one (1) day a week for fifteen (15) weeks.

Amended: 8-904.120 to distinguish notice requirements of ordinary suspensions from those of summary suspensions.

Amended: 8-913.10 to clarify the Department's authority to impose civil penalties for violation of an order of the Department.

Chapter 9, Standards for Additional Retail Food Establishment Operations, the following changes apply:

Deleted: References to thermometer scales in requirements for thermometers in all sections.

Section 9-1

Amended: (A)(1) Mobile food establishment definition to add that a mobile food unit can be a watercraft and is movable or portable.

Amended: (A)(2) commissary definition to provide that a retail food establishment that serves a highly susceptible population and is regulated by the Department as a health care facility may not be used as a commissary.

Amended: (B)(3) to remove the requirement for daily return to commissary and storage at commissary; added new requirements (a)-(c) to allow for up to seventy-two (72) hours of operation before servicing for fully self-contained units and to allow Department approval of alternative storage locations for all types of units.

Amended: (F)(1)(b)(i) Service window size requirement so that windows can be configured as needed but no bigger than 576 inches square.

Amended: (H)(5) to align hot water requirement with 5-103.11.

Added:(H)(6) to allow for units to hook up to a public water supply on a temporary basis at location provided that they can also hook up to approved wastewater disposal system. This provision supports the allowance for longer times between servicing at commissary.

Amended: (I)(3) to delete "only" and to add "or approved sewage disposal site."

Amended: (K)(2) to clarify enclosure exemption is for units that serve only commercially, fully cooked, TCS foods that only require heating, not cooking.

Deleted: (K)(3) to remove exemption from CFPM requirements for mobile pushcarts. Mobile units will comply with Food Handler section of 2-102.12 or be exempted under 2-102.20 (B), depending on menu.

Deleted: (L)(8)(a) to delete requirement for drawings and renumbered remainder of section.

Amended: (L)(12) to delete the lettering size requirement, delete the requirement to print the commissary name and permit number, and require that signage must be conspicuous to the consumer as a replacement for these requirements.

Section 9-2

Amended: Section title to read "Meat/Meat Product and Fish/Fish Product Sales" and made corresponding changes to all subsections. This allows for broader use of this section for roadside meat/fish sales and removes any requirement to inspect vehicles for any other type of food transport or storage unit not subject to Department regulatory authority. Clarified that this section applies to the transportation of meat and fish products from source to point of sale.

Amended: (C)(1) to clarify that ice must be obtained from approved sources.

Amended: (C)(7) to clarify language pertaining to temperature measuring during transport.

Amended: (D) to clarify the subsection title and requirements related to refrigeration.

Section 9-3

Amended: (D)(3) and (D)(4) to change "exclusive" to "exclusively used" for clarity.

Amended: (D)(6) to add that the waste container needs to be in the outdoor pet dining area and used exclusively for storing pet waste.

Amended: (E)(1) to require that signs shall be posted at all dining entrances stating that the facility is pet friendly and has an outdoor pet friendly dining area.

Amended: (E)(6) to remove restriction allowing pets on chairs and to change the restriction to apply to food contact surfaces.

Section 9-5

Amended: (A)(1) to add that a retail food establishment that serves a highly susceptible population and is regulated by the Department as a health care facility may not be used as a shared use operation.

Added: (B)(1) to move duties of the facilitator from (C)(1)(a) to the general section to clarify that it is applicable to the entire section.

Amended: (C) and (D) to combine sections (C) "Permits" and (D) "Compliance" into a single section titled "Compliance" to be consistent with other Chapter 9 sections.

Amended: (C)(1)(a) to remove language moved to (B)(1), to require the facilitator to provide the number of shared use operators the facility can accommodate and to require that the shared use operation will not exceed this number of operators without Department notification.

Section 9-6

Amended: (E)(1) to add "pizza ovens designed for outdoor use" as accepted equipment for outdoor cooking.

Amended: (G)(2) to change "meet" to "have at" for readability and clarity.

Section 9-7

Amended: The introduction to add that the standard is applicable to a smokehouse room.

Section 9-8

Amended: (A) to add "movie or filming location" to the list of allowed events.

Added: (E)(7)-(8) to require that food must be kept covered and that covers or lids may only be removed for stirring and similar actions.

Amended: (H)(3) changed "backsiphonage" to "backflow" to match term used in Chapter 5 for consistency.

Deleted: (J)(3) The reference to mechanical ventilation is not required as it was an unnecessary statement.

Amended: (K)(7) to correct error in section references in (K)(7) and renamed section 9-11.

Section 9-9

Added: (D)(13)-(14) to require that food must be kept covered and that covers or lids may only be removed for stirring and similar actions.

Amended: (G)(3) changed "backsiphonage" to "backflow" to match term used in Chapter 5 for consistency.
Deleted: (I)(4) The reference to mechanical ventilation is not required as it was an unnecessary statement.

Section 9-10

Amended: (G)(3) changed "backsiphonage" to "backflow" to match term used in Chapter 5 for consistency.

Deleted: (I)(4) The reference to mechanical ventilation is not required as it was an unnecessary statement. Renumbered remaining subparagraph.

Section 9-11

Amended: Section title to read "Retail Food Establishment – South Carolina Farmers Markets, Seasonal Series and Remote Service" to allow this section to cover other types of events and activities not previously covered by the regulation. Made corresponding changes to introduction.

Added: (A)(3) to define "remote service operation."

Amended: (B)(1) to add remote service sites.

Amended: (B)(3)-(4) to expand the number of days a week allowed for these functions to two days a week to accommodate the schedules of the farmers' markets and similar events.

Added: (D)(9)-(10) to require food must be kept covered and that covers or lids may only be removed for stirring and similar actions.

Amended: (F)(1) to remove requirement for markets to provide a handsink and changed handsink requirements to match Chapter 9-9 and 9-10 facilities that operate for the same time period.

Added: (F)(1)(a)-(b) as part of handsink clarification requirements.

Amended: (F)(2) to remove requirement for one hundred (100)-degree Fahrenheit temperature water at handwashing facility and to require handwashing facility to be of adequate storage capacity to meet the demand of the food service operation.

Amended: (F)(3) to delete specific water storage requirements and replace them with requirement for soap and disposable towels.

Amended: (H) Title to include "and Refuse Removal" to accurately reflect the section.

Deleted: (I)(1) to remove the exemption from CFPM for seasonal series and community-based farmers' markets as the revised Food Handler requirements in the body of the regulation cover these operations.

Deleted: (I)(3) The reference to mechanical ventilation is not required as it was an unnecessary statement.

Amended: (J)(1) to add that remote service does not require pre-approval authorization.

R.61-37

R.61-37 is repealed and stricken in its entirety, as its amended requirements are being incorporated into R.61-25, Chapter 8.

Instructions:

Replace in entirety R.61-25, Retail Food Establishments, with this amendment.
Repeal in entirety R.61-37, Retail Food Establishment Inspection Fees, in the South Carolina Code of Regulations.

Text:

61-25. Retail Food Establishments.

Statutory Authority: 1976 Code Sections 44-1-140(2), 44-1-150, and 44-1-180

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Chapter 1 Purpose and Definitions

1-1 TITLE, INTENT, SCOPE

1-101 Title

1-101.10 Regulation 61-25.

These provisions shall be known as Regulation 61-25, hereinafter referred to as “this Regulation."

1-102 Intent

1-102.10 Food Safety, Illness Prevention, and Honest Presentation.

The purpose of this Regulation is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

1-103 Scope

1-103.10 Statement.

This Regulation establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for retail food establishment permit issuance, inspection, employment restriction, permit suspension and revocation.

1-2 DEFINITIONS

1-201 Applicability and Terms Defined.

1-201.10 Statement of Application and Listing of Terms.

(A) The following definitions shall apply in the interpretation and application of this Regulation.

(B) Terms Defined. As used in this Regulation, each of the terms listed in 1-201.10(B) shall have the meanings stated below.

(1) **Accredited Program.**

(a) **"Accredited program"** means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(b) **"Accredited program"** refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission, organizational structure, staff resources revenue sources, policies, public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures, and test development and administration.

(c) **"Accredited program"** does not refer to training functions or educational programs.

(2) **Additives.**

(a) **"Food additive"** has the meaning stated in the *Federal Food, Drug, and Cosmetic Act*, Section 201(s) and 21 CFR 170.3(e)(1).

(b) **"Color additive"** has the meaning stated in the *Federal Food, Drug, and Cosmetic Act*, Section 201(t) and 21 CFR 70.3(f).

(3) **"Adulterated"** means to make food unsafe for human consumption by any means, including, but not limited to, the addition of a foreign or inferior substance or food that has violated a critical limit.

(4) **"Approved"** means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(5) **"A_w"** means a symbol for water activity, which measures the free moisture in a food. It is the quotient of water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

(6) "**Balut**" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

(7) **"Beverage"** means a liquid for drinking, including water.

(8) **"Boarding house"** means a private residence in which lodgers rent one or more rooms for extended periods of time, usually weeks, months or years. The common parts of the house are maintained, and some

services, such as laundry and cleaning, may be supplied. They normally provide "bed and board" which will include some meals as well as accommodation.

(9) **"Bottled drinking water"** means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

(10) **"Casing"** means a tubular container for sausage products made of either natural or artificial (synthetic) material.

(11) "**Certification number**" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

(12) **"CFR"** means Code of Federal Regulations. Citations in this regulation to the CFR refer sequentially to the Title, Part, and Section numbers such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

(13) **CIP.**

(a) **"CIP"** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

(b) **"CIP"** does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(14) **"Commingle"** means:

(a) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or

(b) To combine shucked shellfish from containers with different container codes or different shucking dates.

(15) **Comminuted.**

(a) **"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing.

(b) **"Comminuted"** includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage, and a mixture of two (2) or more types of meat that have been reduced in size and combined.

(16) **"Commissary"** means a permitted retail food establishment that is authorized by the Department to provide a servicing area for mobile food unit or mobile food pushcarts for the purposes of storage of food, supplies, and single-service articles. The commissary supports the following operations:

(a) Food preparation.

(b) Equipment and utensil washing.

(c) Disposal of sewage and solid waste.

(d) Obtainment of potable water.

(e) Provides a mobile food unit or mobile food pushcart servicing and storage area.

(17) **"Community-based farmers market"** means a market sponsored by a community or governmental organization either having been certified by the SC Department of Agriculture as a SC Certified Farmer's Market or a farmers market that meets the definition of the Farmers Market Coalition which states, "A farmers market operates multiple times per year and is organized for the purpose of facilitating personal connections that create mutual benefits for local farmers, shoppers, and communities and implements rule or guidelines of operation that ensure that the farmers market consists principally of farms selling directly to the public products that the farms have produced."

(18) **"Community festivals"** means events sponsored by a community group, city/county/state organization, as a community celebration, that are generally theme related, and have multiple food vendors recruited to provide food to the public for a time period not to exceed three (3) consecutive days or no more than seventy-two (72) continuous hours. Each community festival is unique and will not be held more frequently than annually, although a sponsoring organization or group might have multiple but differently themed community festivals in a year.

(19) "**Consumer**" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a retail food establishment or food processing plant, and does not offer the food for resale.

(20) **"Core violation"** See (132) "Violations."

(21) **"Corrosion-resistant materials"** means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(22) **"Counter-mounted equipment"** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(23) **"Critical control point"** means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

(24) **"Critical limit"** means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(25) **"Cut leafy greens"** means fresh leafy greens whose leaves have been further cut, shredded, sliced, chopped, or torn beyond any cut made to harvest intact leaves from a plant. The term "cut leafy greens" does not apply to leaves harvested intact from a plant. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

(26) **"Dealer"** means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

(27) **"Department"** means the South Carolina Department of Health and Environmental Control or agents thereof having responsibility for enforcing these regulations.

(28) **"Disclosure"** means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

(29) **Drinking Water.**

(a) **"Drinking water"** means water that meets criteria as specified in 40 CFR 141, *National Primary Drinking Water Regulations* and R.61-58, *State Primary Drinking Water Regulation*.

(b) **"Drinking water"** is traditionally known as "potable water."

(c) **"Drinking water"** includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

(30) **"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

(31) **Easily cleanable.**

(a) **"Easily cleanable"** means a characteristic of a surface that:

(i) Allows effective removal of soil by normal cleaning methods;

(ii) Is dependent on the material, design, construction, and installation of the surface; and

(iii) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(b) **"Easily cleanable"** includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in (a) of this definition to different situations in which varying degrees of cleanability are required such as:

(i) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or

(ii) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

(32) **"Easily movable"** means:

(a) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

(33) **Egg.**

(a) **"Egg"** means the shell egg of an avian species such as chicken, duck, goose, guinea, quail, ratites or turkey.

(b) **"Egg"** does not include:

(i) A balut;

(ii) The egg of reptile species such as alligator; or

(iii) An egg product.

(34) **Egg product**.

(a) **"Egg Product"** means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs.

(b) **"Egg Product"** does not include food which contains eggs only in a relatively small proportion such as cake mixes.

(35) **"Employee"** means the permit holder, person in charge, food employee, person having supervisory or managerial duties, person on the payroll, family member, volunteer, person performing work under a contractual agreement, or any other person working in a retail food establishment.

(36) **"EPA"** means the U.S. Environmental Protection Agency.

(37) **Equipment.**

(a) **"Equipment"** means an article that is used in the operation of a retail food establishment such as a freezer, grinders, hood, ice makers, meat block, mixer, oven, reach-in refrigerators, scale, sinks, slicer, stove, table temperature measuring device for ambient air, or warewashing machine.

(b) **"Equipment"** does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

(38) **"Exclude"** means to prevent a person from working as an employee in a retail food establishment or entering a retail food establishment as an employee.

(39) **"FDA"** means the U. S. Food and Drug Administration.

(40) **Fish.**

(a) **"Fish"** means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

(b) **"Fish"** includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(41) **"Food"** means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(42) **"Foodborne disease outbreak"** means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(43) "**Food-contact surface**" means:

(a) A surface of equipment or a utensil with which food normally comes into contact; or

(b) A surface of equipment or a utensil from which food may drain, drip, or splash:

(i) Into a food, or

(ii) Onto a surface normally in contact with food.

(44) "**Food employee**" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(45) **Food processing plant.**

(a) "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or retail food establishments.

(b) "Food processing plant" does not include a retail food establishment.

(46) **Game animal.**

(a) **"Game animal"** means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2, *Definitions*, or as poultry or fish.

(b) **"Game animal"** includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(c) **"Game animal"** does not include ratites.

(47) **"General use pesticide"** means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175, *Pesticides Classified for Restricted Use*.

(48) **"Grade A standards"** refers to milk that meets the requirements of the United States Public Health Service/FDA *Grade A Pasteurized Milk Ordinance* with which certain fluid and dry milk and milk products comply or the requirements of the Department's R.61-34, *Raw Milk for Human Consumption*.

(49) **"Grade decal"** means an official decal issued by the Department that is posted by the Department in a retail food establishment, or on a mobile food unit or a mobile food pushcart that is representative of the most recent inspection.

(50) **"HACCP (Hazard Analysis and Critical Control Point) plan"** means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

(51) **Handwashing sink**.

(a) **"Handwashing sink"** means a lavatory, a basin for handwashing, or a plumbing fixture specifically placed for use in personal hygiene and designed for the washing of the hands.

(b) **"Handwashing sink"** includes an automatic handwashing facility.

(52) **"Hazard"** means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(53) **"Health practitioner"** means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

(54) **"Hermetically sealed container**" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned food, is able to maintain the commercial sterility of its contents after processing.

(55) **"Highly susceptible population"** means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(a) Immunocompromised; preschool age children or older adults; and

(b) Obtaining food at a facility that provides services such as: custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

(56) **"Imminent health hazard"** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries, and

(b) The nature, severity, and duration of the anticipated illness or injury.

(57) **"Injected"** means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

(58) **"Intact Meat"** means a cut of whole muscle(s) meat that has not undergone comminution, injection, mechanical tenderization, or reconstruction.

(59) **Juice**.

(a) **"Juice"** means the aqueous liquid expressed or extracted from one or more fruits, or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée.

(b) **"Juice"** does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

(60) **"Kitchenware"** means food preparation and storage utensils.

(61) **"Law"** means applicable local, state, and federal statutes, regulations, and ordinances.

(62) **"Linens"** means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.

(63) **"Low-risk food processes"** means food processes that have been determined and approved by the Department to be low risk. The Department will evaluate low-risk food processes based on food items, food handling and preparation, and foodborne illness.

(64) **Major Food Allergen**.

(a) **"Major food allergen"** means:

(i) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food, as specified in (a)(i) of this definition.

(b) **"Major food allergen"** does not include:

(i) Any highly refined oil derived from a food specified in (a)(i) of this definition and any ingredient derived from such highly refined oil; or

(ii) Any ingredient that is exempt under the petition or notification process specified in the *Food Allergen Labeling and Consumer Protection Act of 2004* (Public Law 108-282).

(65) **"Meat"** means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, goats, or other edible animals, except fish, poultry, and game animals as specified under 3-201.17(A)(3) and (4).

(66) **Mechanically tenderized.**

(a) **"Mechanically tenderized"** means manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles or any mechanical device.

(b) **"Mechanically tenderized"** does not include processes by which solutions are injected into meat.

(67) **"mg/L"** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(68) **"Mobile food establishment"** means a retail food establishment that consists of a commissary and mobile food units or mobile food pushcarts.

(69) **"Mobile food unit"** means fully enclosed mobile kitchens that prepare, cook, or serve time/temperature control for safety food as an extension of a commissary.

(70) **"Mobile food pushcart"** means limited food service units that operate as an extension of a commissary.

(71) **"Molluscan shellfish"** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(72) **Non-continuous cooking.**

(a) **"Non-continuous cooking"** means the cooking of food in a retail food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.

(b) **"Non-continuous cooking"** does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

(73) **"Nuisance"** for the purpose of this Regulation is a public health nuisance and means whatever is dangerous to human life or detrimental to health, including but not limited to whatever structure or premises is not sufficiently ventilated, sewered, drained, cleaned, or lighted with respect to its intended occupancy.

(74) **Packaged.**

(a) **"Packaged"** means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a retail food establishment or a food processing plant.

(b) **"Packaged"** does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer by a food employee upon consumer request.

(75) **"Permit"** means the document issued by the Department that authorizes a person or entity to operate a retail food establishment.

(76) **"Permit holder"** means the entity that:

(a) Is legally responsible for the operation of the retail food establishment such as the owner, the owner's agent, or other person; and

(b) Possesses a valid permit to operate a retail food establishment.

(77) **"Person"** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(78) **"Person in charge"** means the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

(79) **Personal care items.**

(a) **"Personal care items"** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.

(b) **"Personal care items"** include items such as medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

(80) **"pH"** means the symbol for the negative logarithm of the hydrogen ion concentration, which it is a measure of the degree of the acidity or alkalinity of a solution. Values between zero (0) and seven (7.0) indicate acidity and values between seven (7.0) and fourteen (14.0) indicate alkalinity. The value for pure distilled water is seven (7.0), which is considered neutral.

(81) **"Physical facilities"** means the structure and interior surfaces of a retail food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(82) **"Plumbing fixture"** means a receptacle or device that:

(a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(83) **"Plumbing system"** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

(84) **"Poisonous or toxic materials"** means substances that are not intended for ingestion and are included in 4 categories:

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(c) Substances necessary for the operation and maintenance of the retail food establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the retail food establishment and are on the premises for retail sale such as petroleum products and paints.

(85) **"Poultry"** means:

(a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1, *Poultry Products Inspection Regulations Definitions, Poultry*; and

(b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1, *Voluntary Poultry Inspection Regulations, Definitions.*

(86) **"Premises"** means:

(a) The physical facility, its contents, its land, and any adjacent or bordering contiguous land or property under the control of the permit holder; or

(b) The physical facility, its contents, and land or property not described in (a) of this definition if its facilities, contents, or land that are under the control of the permit holder and may impact the retail food establishment personnel, facilities, or operations, and the retail food establishment is only one component of a larger operation such as a healthcare facility, hotel, motel, school, recreational camp, or prison.

(87) **"Pre-operational inspection"** means an inspection conducted by the Department to determine compliance with the regulation for the purpose of obtaining a permit.

(88) "**Primal cut**" means a basic major cut into which carcasses and sides of meat are separated such as a beef round, pork loin, lamb flank, or veal breast.

(89) **Priority violation** See (132) "Violations."

(90) **Priority foundation violation** See (132) "Violations."

(91) **"Private residence"** means a domestic home or dwelling in which food is prepared or served for individual and family consumption. A private residence is exempt from compliance with this regulation.

(92) **"Process authority"** means a qualified person(s) approved by the Department who have expert knowledge and adequate facilities to assess and determine safe food handling and processing requirements, including but not limited to thermal processing requirements in hermetically sealed containers, reduced oxygen packaging, shelf stable non-time/temperature control for safety foods, and cooking processes.

(93) **"Product assessment"** means a process by which a retail food establishment submits food to be tested at a lab approved by Department to determine if the food is time/temperature control for safety or

non-time/temperature control for safety. A product assessment shall test intrinsic and extrinsic factors necessary to determine if the food is capable of supporting the growth or toxic formation of pathogenic microorganisms.

(94) **"Public water system"** has the meaning stated in 40 CFR 141, *National Primary Drinking Water Regulations* and R.61-58, *State Primary Drinking Water Regulation*.

(95) **"Ratite"** means a flightless bird such as an emu, ostrich, or rhea.

(96) **"Raw milk"** refers to milk that has not been pasteurized and that is approved for sale and human consumption in South Carolina under the Department's R.61-34, *Raw Milk for Human Consumption.*

(97) **Ready-to-Eat Food.**

(a) **"Ready-to-eat food"** means food that:

(i) Is in a form that is edible without additional preparation to achieve food safety, as specified under one of the following: 3-401.11(A) or (B), 3-401.12, or 3-402.11, or as specified in 3-401.11(C); or

(ii) Is a raw or partially cooked animal food and the consumer is advised as specified in 3-401.11(D)(1) and (3); or

(iii) Is prepared in accordance with a variance that is granted as specified in 3-401.11(D) (4); and

(iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(b) **"Ready-to-eat food"** includes:

(i) Raw animal food that is cooked as specified under 3-401.11 or 3-401.12, or frozen as specified under 3-402.11;

(ii) Raw fruits and vegetables that are washed as specified under 3-302.15;

(iii) Fruits and vegetables that are cooked for hot holding, as specified under 3-401.13;

(iv) All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under 3-401 and cooled as specified under 3-501.14;

(v) Plant food for which further washing, cooking, or other processing is not required for food safety and from which rinds, peels, husks, or shells, if naturally present, are removed;

(vi) Substances derived from plants such as spices, seasonings, and sugar;

(vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;

(viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages such as dry salami or pepperoni; salt-cured meat and poultry products such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products such as jerky or beef sticks; and

(ix) Foods manufactured as specified in 21 CFR Part 113, *Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.*

(98) **Reduced Oxygen Packaging.**

(a) **"Reduced oxygen packaging"** means:

(i) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately twenty-one (21) percent at sea level); and

(ii) A process as specified in (a)(i) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(b) **"Reduced oxygen packaging"** includes:

(i) Vacuum packaging in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

(ii) Modified atmosphere packaging in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

(iii) Controlled atmosphere packaging in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;

(iv) Cook chill packaging in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or

(v) Sous vide packaging in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

(99) **"Refuse"** means solid waste not carried by water through the sewage system.

(100) **"Regulation"** refers to Regulation 61-25.

(101) **"Reminder"** means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

(102) **"Re-service"** means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer to another person.

(103) "**Restrict"** means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food, and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(104) **"Restricted egg"** means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

(105) **"Restricted use pesticide"** means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, *Pesticides Classified For Restricted Use*, and that is limited to use by or under the direct supervision of a certified applicator.

(106) **"Retail food establishment"** means an operation that prepares, processes, packages, serves, or otherwise provides food for human consumption, either on or off the premises, regardless of whether there is a charge for the food. These establishments include, but are not limited to, restaurants, delicatessens, snack bars, catering operations, ice cream parlors, school cafeterias, independent living food service operations, licensed healthcare facilities, grocery stores, retail meat markets, fish/seafood markets, retail ice merchants, shared use operations, and mobile food establishments (to include the associated commissary and mobile units).

(107) **"Risk"** means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

(108) **"Safe material"** means:

(a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

(b) An additive that is used as specified in 409 of the *Federal Food, Drug, and Cosmetic Act*; or

(c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(109) **"Sanitization"** means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

(110) **"Sealed"** means free of cracks or other openings that allow the entry or passage of moisture.

(111) **"Seasonal series"** means a regularly occurring event sponsored by a community or governmental organization for promoting local business, culture, or other local specialties.

(112) **"Service animal"** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability as per the *Americans for Disabilities Act.* Service animal does not include emotional, comfort, or similar support animals not recognized under the Americans with Disabilities Act (ADA) regulations as service animals.

(113) **"Servicing area"** means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(114) **"Sewage"** means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(115) **"Shellfish control authority"** means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

(116) **"Shellstock"** means raw in-shell molluscan shellfish.

(117) **"Shiga toxin-producing *Escherichia coli*"** (STEC) means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS - a type of kidney failure). Examples of serotypes of STEC include: *E.coli O157:H7*; *NM E.coli O26:H11*; *E.coli O145*:*NM*; *E.coli O103:H2* and *E. coli O111:NM*. STEC are sometimes referred to as VTEC (*verocytotoxigenic E.coli*) or as EHEC (*Enterohemorrhagic E. coli*). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

(118) "**Shucked shellfish**" means molluscan shellfish that have one of both shells removed.

(119) **"Single-service articles"** means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

(120) **Single-use articles.**

(a) **"Single-use articles"** means utensils and bulk food containers designed and constructed to be used once and discarded.

(b) **"Single-use articles"** means food packaging and other items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 (ten) cans which do not meet the materials, durability, strength, and cleanability specifications under 4-101.11, 4-201.11, and 4-202.11 for multiuse utensils.

(121) **"Slacking"** means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10 degrees F (-23 degrees C) to 25 degrees F (-4 degrees C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking process of previously block-frozen food such as shrimp.

(122) **"Smooth"** means:

(a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred (100) grit number 3 (three) stainless steel;

(b) A non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(123) **"Standard Operating Procedures (SOPs)"** means established or prescribed methods to be followed for the performance of designated operations or in designated situations as determined by the Department.

(124) **"Tableware"** means eating, drinking, and serving utensils for table use such as flatware including forks, knives, spoons; hollowware including bowls, cups, serving dishes, tumblers, and plates.

(125) **"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(126) **"Temporary food establishment"** means an establishment that may be authorized by the Department to operate at a fixed location for a period of time not to exceed fourteen (14) consecutive days in

connection with a fair, carnival, circus, trade show, golf, or other national sporting event and other transitory gatherings organized by the community.

(127) **Time/temperature control for safety food** (formerly "potentially hazardous food" (PHF))**.**

(a) **"Time/temperature control for safety food"** means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(b) "**Time/temperature control for safety food**" includes:

(i) An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(ii) Except as specified in (c)(iv) of this definition, a food that because of the interaction of its Aw and pH values is designated as Product Assessment Required (PA) in Table (A) or (B) of this definition:

Table A. Interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged.

Aw values			
	pH: 4.6 or less	pH: Greater than 4.6 - 5.6	pH: Greater than 5.6
Less than or equal to 0.92	non-TCS Food*	non-TCS Food	non-TCS Food
Greater than 0.92 - 0.95	non-TCS Food	non-TCS Food	PA**
Greater than 0.95	non-TCS Food	PA	PA

* TCS Food means Time/Temperature Control For Safety Food
** PA means Product Assessment required

Table B. Interaction of pH and Aw for control of vegetative cells and spores in food not heattreated or heat treated but not packaged.

Aw values				
	pH: Less than 4.2	pH: 4.2 - 4.6	pH: Greater than 4.6 - 5.0	pH: Greater than 5.0
Less than 0.88	non-TCS Food*	non-TCS Food	non-TCS Food	non-TCS
0.88 - 0.90	non-TCS	non-TCS	non-TCS Food	PA**
Greater than 0.90 - 0.92	non-TCS	non-TCS	PA	PA
Greater than 0.92	non-TCS	PA	PA	PA

* TCS Food means Time/Temperature Control For Safety Food ** PA means Product Assessment required

(c) **"Time/temperature control for safety food"** does not include:

(i) An air-cooled hard-boiled egg with shell intact, or an egg with shell that is not hard-boiled but has been pasteurized to destroy all viable *Salmonellae*;

(ii) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(iii) A food that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-TCS food in Table A or B of this definition;

(iv) A food that is designated TCS* and a product assessment (PA) required in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(aa) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(bb) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmospheric such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use; or

(cc) A combination of intrinsic and extrinsic factors; or

(v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the (c)(i) through (c)(iv) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(128) **"USDA"** means the U.S. Department of Agriculture.

(129) **"Utensil"** means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature-sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

(130) **"Variance"** means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this regulation if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.

(131) **"Vending machine"** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(132) **Violations.**

(a) **Priority violation.**

(i) **"Priority violation"** means the violation of a provision in this Regulation whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with

foodborne illness or injury and there is no other provision that more directly controls the hazard. Priority violations are denoted in this regulation by the superscript "P".

(ii) **"Priority violation"** includes violations with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing.

(b) **Priority Foundation violation.**

(i) **"Priority foundation violation"** means the violation of a provision in this Regulation whose application supports, facilitates or enables one or more priority violations. Priority foundation violations are denoted in this regulation by the superscript "Pf".

(ii) **"Priority foundation violation"** includes a violation that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

(c) **Core violation.**

(i) **"Core violation"** means the violation of a provision in this Regulation that is not designated as a priority item or a priority foundation violation.

(ii) **"Core violation"** includes a violation that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

(d) **"Consecutive violation"** means a priority or priority foundation or core violation that was recorded on routine or complaint inspection(s), and is recorded on consecutive routine or complaint inspection(s). Consecutive violations are the same violation citation and similar in nature.

(133) "**Warewashing**" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

(134) **"Whole-muscle, intact beef"** means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

Chapter 2 Management and Personnel

2-1 SUPERVISION

2-101 Responsibility

2-101.11 Assignment.

(A) Except as specified in (B) of this section, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the retail food establishment during all hours of operation. Pf

(B) In a retail food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of food preparation, production, and service, and who is responsible for each separately permitted retail food establishment on the premises. Pf

2-102 Knowledge

2-102.11 Demonstration.

Based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the Department knowledge of foodborne disease prevention, application of the Hazard Analysis and Critical Control Point principles, and the requirements of this regulation. The person in charge shall demonstrate this knowledge by:

(A) Complying with this regulation by having no priority violations during the current inspection;[Pf]

(B) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; [Pf] or

(C) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee; [Pf]

(2) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease; [Pf]

(3) Describing the symptoms associated with the diseases that are transmissible through food;[Pf]

(4) Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness; [Pf]

(5) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish; [Pf]

(6) Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish; [Pf]

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of time/temperature control for safety food; [Pf]

(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(a) Cross contamination, [Pf]

(b) Hand contact with ready-to-eat foods, [Pf]

(c) Handwashing, [Pf] and

(d) Maintaining the retail food establishment in a clean condition and in good repair; [Pf]

(9) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction; [Pf]

(10) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment; [Pf]

(11) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this regulation, or an agreement between the Department and the retail food establishment. Pf

2-102.12 Certified Food Protection Manager and Food Handler Certification.

(A) At least one employee that has supervisory and management responsibility, the authority to direct and control food preparation and service, the ability to enforce employee health policies, and a frequent presence at the facility shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(B) At all times during operation, the person in charge shall be a certified food handler or a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(C) This section does not apply to certain types of retail food establishments deemed by the Department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and the extent of food preparation.

2-102.20 Food Protection Manager Certification.

(A) A person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with 2-102.11(B).

(B) A retail food establishment that has an employee that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with 2-102.12.

2-103 Duties

2-103.11 Person in Charge.

The person in charge shall ensure that:

(A) Retail food establishment operations are not conducted in a private residence or in a room used as living or sleeping quarters; Pf

(B) Persons unnecessary to the retail food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except brief visits and tours may be authorized by the person in charge if steps are taken to ensure that food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles are protected from contamination; Pf

(C) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this regulation; Pf

(D) Employees are effectively cleaning their hands by routinely monitoring the employees' handwashing; Pf

(E) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt; Pf

(F) Employees are verifying that foods delivered to the retail food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented; Pf

(G) Employees are properly cooking time/temperature control for safety foods, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated; Pf

(H) Employees are using proper methods to rapidly cool time/temperature control for safety foods through daily oversight of the employees' routine monitoring of food temperatures during cooling; Pf

(I) Employees are properly maintaining the temperatures of time/temperature control for safety foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures; Pf

(J) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed by a consumer advisory that the food is not cooked sufficiently to ensure its safety; Pf

(K) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused through routine monitoring of solution temperature and exposure time for hot water sanitizing and chemical concentration, pH, temperature, and exposure time for chemical sanitizing; Pf

(L) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets; Pf

(M) Employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; Pf

(N) Employees are properly trained in food safety as it relates to their assigned duties; Pf

(O) Food employees are informed of their responsibility to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food;Pf

(P) The retail food establishment has a written plan for the restriction, exclusion and re-instatement of food employees when they are restricted or excluded for conditions as specified in 2-201.12 Pf; and

(Q) Written procedures and plans, where specified by this regulation and as developed by the retail food establishment, are maintained and implemented as required. Pf

2-2 EMPLOYEE HEALTH

2-201 Responsibilities of Permit Holder, Person in Charge, and Food Employees

2-201.11 Responsibility and Reporting Symptoms and Diagnosis.

(A) The permit holder shall require food employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease

transmission including providing necessary additional information such as the date of onset of symptoms and an illness or of a diagnosis without symptoms if the food employee:

(1) Has any of the following symptoms:

(a) Vomiting, [P]

(b) Diarrhea, [P]

(c) Jaundice, [P]

(d) Sore throat with fever, [P] or

(e) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(i) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover, [P]

(ii) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, [P] or

(iii) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage; [P]

(2) Has an illness diagnosed by a health practitioner due to:

(a) Norovirus, [P]

(b) Hepatitis A virus, [P]

(c) *Shigella* spp., [P]

(d) Shiga toxin-producing *Escherichia coli*, [P]

(e) Typhoid fever (caused by *Salmonella* Typhi) [P] or

(f) *Salmonella* (nontyphoidal); [P]

(3) Had Typhoid fever diagnosed by a health practitioner within the past three (3) months without having received antibiotic therapy as determined by a health practitioner; [P]

(4) Has been exposed to or is the suspected source of a confirmed disease outbreak, because the food employee consumed or prepared food implicated in the outbreak or consumed food at an event prepared by a person who is infected or ill with:

(a) Norovirus within the past forty-eight (48) hours of the last exposure, [P]

(b) Shiga toxin-producing *Escherichiacoli* or *Shigella* spp. within the past three (3) days of the last exposure, [P]

(c) Typhoid fever within the past fourteen (14) days of the last exposure, [P] or

(d) Hepatitis A virus within the past thirty (30) days of the last exposure; [P] or

(5) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and having knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and having knowledge about, an individual diagnosed with an illness caused by:

(a) Norovirus within the past forty-eight (48) hours of the last exposure, [P]

(b) Shiga toxin-producing *Escherichia coli* or *Shigella* spp. within the past three (3) days of the last exposure, [P]

(c) Typhoid fever (caused by *Salmonella* Typhi) within the past fourteen (14) days of the last exposure, [P] or

(d) Hepatitis A virus within the past thirty (30) days of the last exposure. [P]

(B) The person in charge shall notify the Department when a food employee is:

(1) Jaundiced, [Pf] or

(2) Diagnosed with an illness due to a pathogen as specified under (A)(2)(a) through (f) of this section. [Pf]

(C) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under (A)(1) through (5) of this section, is:

(1) Excluded as specified under section 2-201.12 (A) -(C), and (D)(1), (E)(1), (F)(1), (G) or (H)(1) and in compliance with the provisions specified under section 2-201.13(A)through (H); [P] or

(2) Restricted as specified under 2-201.12 (D)(2), (E)(2), (F)(2), (H)(2), or section 2-201.12(I) or (J) and in compliance with the provisions specified under section 2-201.13(D)through (J). [P]

(D)A food employee shall report to the person in charge the information as specified under (A) of this section. [Pf]

(E) A food employee shall:

(1) Comply with an exclusion as specified under section 2-201.12(A) through(C) and 2-201.12(D)(1), (E)(1), (F)(1), (G), or (H)(1) and with the provisions specified under section 2-201.13(A)through (H); [P] or

(2) Comply with a restriction as specified under 2-201.12(D)(2), (E)(2), (F)(2), (G), (H)(2), or section 2-201.12 (H), (I), or (J) and comply with the provisions specified under section 2-201.13(D) through (J). [P]

2-201.12 Exclusions and Restrictions.

The person in charge shall exclude or restrict a food employee from a retail food establishment in accordance with the following:

(A) Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

(1) Symptomatic with vomiting or diarrhea; [P] or

(2) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, *Shigella* spp., *Salmonella* (nontyphoidal), or Shiga toxin-producing *E.coli*. [P]

(B) Exclude a food employee who is:

(1) Jaundiced and the onset of jaundice occurred within the last seven (7) calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by Hepatitis A virus or other fecal-orally transmitted infection; [P]

(2) Diagnosed with an infection from Hepatitis A virus within fourteen (14) calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; [P] or

(3) Diagnosed with an infection from Hepatitis A virus without developing symptoms. [P]

(C) Exclude a food employee who is diagnosed with Typhoid fever, or reports having had Typhoid fever within the past three (3) months as specified under 2-201.11(A)(3). [P]

(D) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

(1) Exclude the food employee who works in a retail food establishment serving a highly susceptible population; [P]or

(2) Restrict the food employee who works in a retail food establishment not serving a highly susceptible population. [P]

(E) If a food employee is diagnosed with an infection from *Shigella* spp. and is asymptomatic:

(1) Exclude the food employee who works in a retail food establishment serving a highly susceptible population; [P] or

(2) Restrict the food employee who works in a retail food establishment not serving a highly susceptible population. [P]

(F) If a food employee is diagnosed with an infection from Shiga toxin-producing *E. coli* and is asymptomatic:

(1) Exclude the food employee who works in a retail food establishment serving a highly susceptible population; [P]or

(2) Restrict the food employee who works in a retail food establishment not serving a highly susceptible population. [P]

(G) If a food employee is diagnosed with an infection from *Salmonella* (nontyphoidal) and is asymptomatic, restrict the food employee who works in a retail food establishment serving a highly susceptible population or in a retail food establishment not serving a highly susceptible population. [P]

(H) If a food employee is ill with symptoms of acute onset of sore throat with fever:

(1) Exclude the food employee who works in a retail food establishment serving a highly susceptible population; [P]or

(2) Restrict the food employee who works in a retail food establishment not serving a highly susceptible population. [P]

(I) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under 2-201.11(A)(1)(e), restrict the food employee. P

(J) If a food employee is exposed to a foodborne pathogen as specified under 2-201.11(A)(4)(a) through (d) or 2-201.11(A)(5)(a) through (d), restrict the food employee who works in a retail food establishment serving a highly susceptible population. P

2-201.13 Removal, Adjustment, or Retention of Exclusions and Restrictions.

The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

(A) Except when a food employee is diagnosed with Typhoid fever or an infection from hepatitis A virus:

(1) Reinstate a food employee who was excluded as specified under 2-201.12(A)(1) if the food employee:

(a) Is asymptomatic for at least twenty-four (24) hours; P or

(b) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition. P

(2) If a food employee was diagnosed with an infection from Norovirus and excluded as specified under 2-201.12(A)(2):

(a) Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under (D)(1) or (2) of this section are met; P or

(b) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under (D)(1) or (2) of this section are met. P

(3) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under 2-201.12(A)(2):

(a) Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under (E)(1) or (2) of this section are met; P or

(b) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under (E)(1) or (2) or (E)(1) and (3)(a) of this section are met. P

(4) If a food employee was diagnosed with an infection from Shiga toxin-producing *Escherichia coli* and excluded as specified under 2-201.12(A)(2):

(a) Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under (F)(1) or (2) of this section are met; P or

(b) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a retail food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under (F)(1) or (2) are met. P

(5) If a food employee was diagnosed with an infection from *Salmonella* (nontyphoidal) and excluded as specified under 2-201.12(A)(2):

(a) Restrict the food employee, who is asymptomatic for at least thirty (30) days, until conditions for reinstatement as specified under (G)(1) or (2) of this section are met; [P] or

(b) Retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified under Paragraphs (G)(1) or (G)(2) of this section are met. [P]

(B) Reinstate a food employee who was excluded as specified under 2-201.12(B) if the person in charge obtains approval from the Department and one of the following conditions is met;

(1) The food employee has been jaundiced for more than seven (7) calendar days; [P]

(2) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than fourteen (14) calendar days; [P] or

(3) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Hepatitis A virus infection. [P]

(C) Reinstate a food employee who was excluded as specified under 2-201.12(C) if the food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from Typhoid fever. [P]

(D) Reinstate a food employee who was excluded as specified under 2-201.12(A)(2) or (D)(1) who was restricted under 2-201.12(D)(2) if:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection; [P]

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than forty-eight (48) hours have passed since the food employee became asymptomatic; [P] or

(3) The food employee was excluded or restricted and did not develop symptoms and more than forty-eight (48) hours have passed since the food employee was diagnosed. [P]

(E) Reinstate a food employee who was excluded as specified under 2-201.12(A)(2) or (E)(1) or who was restricted under 2-201.12(E)(2) if one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken:

(a) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, [P] and

(b) At least twenty-four (24) hours apart; [P]

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven (7) calendar days have passed since the food employee became asymptomatic; [P] or

(3) The food employee was excluded or restricted and did not develop symptoms and more than seven (7) calendar days have passed since the food employee was diagnosed. [P]

(F) Reinstate a food employee who was excluded or restricted as specified under 2-201.12(A)(2) or (F)(1) or who was restricted under 2-201.12(F)(2) if one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Shiga toxin-producing *Escherichia coli* based on test results that show two (2) consecutive negative stool specimen cultures that are taken:

(a) Not earlier than forty-eight (48) hours after discontinuance of antibiotics; [P] and

(b) At least twenty-four (24) hours apart; [P]

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven (7) calendar days have passed since the food employee became asymptomatic; [P] or

(3) The food employee was excluded or restricted and did not develop symptoms and more than seven (7) days have passed since the food employee was diagnosed. [P]

(G) Reinstate a food employee who was excluded as specified under 2-201.12(A)(2) or who was restricted as specified under 2-201.12(G) if one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Salmonella* (nontyphoidal) infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken;

(a) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, [P] and

(b) At least twenty-four (24) hours apart; [P]

(2) The food employee was restricted after symptoms of vomiting or diarrhea resolved and more than thirty (30) days have passed since the food employee became asymptomatic; [P] or

(3) The food employee was excluded or restricted and did not develop symptoms and more than thirty (30) days have passed since the food employee was diagnosed. [P]

(H) Reinstate a food employee who was excluded or restricted as specified under 2-201.12(H)(1) or (2) if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(1) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than twenty-four (24) hours; [P]

(2) Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection; [P] or

(3) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection. [P]

(I) Reinstate a food employee who was restricted as specified under 2-201.12(I) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(1) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist; [P]

(2) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; [P]or

(3) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body. [P]

(J) Reinstate a food employee who was restricted as specified under 2-201.12(J) and was exposed to one of the following pathogens as specified under 2-201.11(A)(4)(a) through (d) or 2-201.11(A)(5)(a) through (d):

(1) Norovirus and one of the following conditions is met:

(a) More than forty-eight (48) hours have passed since the last day the food employee was potentially exposed; [P] or

(b) More than forty-eight (48) hours have passed since the food employee's household contact became asymptomatic. [P]

(2) *Shigella* spp. or Shiga toxin-producing *Escherichia coli* and one of the following conditions is met:

(a) More than three (3) calendar days have passed since the last day the food employee was potentially exposed; [P] or

(b) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic. [P]

(3) Typhoid fever (caused by *Salmonella* Typhi) and one of the following conditions is met:

(a) More than fourteen (14) calendar days have passed since the last day the food employee was potentially exposed; [P] or

(b) More than fourteen (14) calendar days have passed since the food employee's household contact became asymptomatic. [P]

(4) Hepatitis A virus and one of the following conditions is met:

(a) The food employee is immune to Hepatitis A virus infection because of a prior illness from Hepatitis A; [P]

(b) The food employee is immune to Hepatitis A virus infection because of vaccination against Hepatitis A; [P]

(c) The food employee is immune to Hepatitis A virus infection because of IgG administration; [P]

(d) More than thirty (30) calendar days have passed since the last day the food employee was potentially exposed; [P]

(e) More than thirty (30) calendar days have passed since the food employee's household contact became jaundiced; [P] or

(f) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least thirty (30) days after the potential exposure as specified in (I)(4)(d) and (e) of this section, and the food employee receives additional training about:

(i) Hepatitis A symptoms and preventing the transmission of infection, [P]

(ii) Proper handwashing procedures, [P] and

(iii) Protecting ready-to-eat food from contamination introduced by bare hand contact. P

2-201.120 Departmental Action - Disease Transmission Known or Suspected.

(A) When the Department knows or has reasonable cause to suspect transmission of an enteric foodborne disease by a food employee of a facility, the Department may secure a medical history of the suspected food employee or make any other investigation necessary.

(B) The Department may require any or all of the following measures:

(1) The immediate exclusion of the food employee from employment in retail food establishments;

(2) The Department can declare an imminent health hazard requiring the immediate closure of the retail food establishment or any section thereof until no further danger of disease transmission exists;

(3) Restriction of the food employee's services to some other activity in the retail food establishment where there would be no danger of transmitting disease;

(4) Medical and laboratory examination of the food employee;

(5) Laboratory examination of food samples and environmental swabs from the retail food establishment.

2-3 PERSONAL CLEANLINESS

2-301 Hands and Arms

2-301.11 Clean Condition.

Food employees shall keep their hands and exposed portions of their arms clean. P

2-301.12 Cleaning Procedure.

(A) Except as specified in (D) of this section, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms, for at least twenty (20) seconds, using a cleaning compound in a handwashing sink that is equipped as specified under 5-202.12 and 6-301.P

(B) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

(1) Rinse under clean, running warm water; P

(2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; P

(3) Rub together vigorously for at least ten (10) to fifteen (15) seconds while:

(a) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, P and

(b) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger-tips, and areas between the fingers; P

(4) Thoroughly rinse under clean, running warm water; P and

(5) Immediately follow the cleaning procedure with thorough drying using a method as specified under 6-301.12.[P]

(C) To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

(D) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.

2-301.14 When to Wash.

Food employees shall clean their hands and exposed portions of their arms as specified under 2-301.12 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles[P] and:

(A) After touching bare human body parts other than clean hands and clean, exposed portions of arms;[P]

(B) After using the toilet room; [P]

(C) After caring for or handling service animals, pets, or aquatic animals as specified in 2-403.11(B);[P]

(D) Except as specified in 2-401.11(B) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking; [P]

(E) After handling soiled equipment or utensils; [P]

(F) During food preparation as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; [P]

(G) When switching between working with raw food and working with ready-to-eat food; [P]

(H) Before donning gloves to initiate a task that involves working with food; [P] and

(I) After engaging in other activities that contaminate the hands. [P]

2-301.15 Where to Wash.

Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste. [Pf]

2-301.16 Hand Antiseptics.

(A) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(1) Comply with one of the following:

(a) Be an approved drug that is listed in the FDA publication *Approved Drug Products with Therapeutic Equivalence Evaluations* as an approved drug based on safety and effectiveness; [Pf] or

(b) Have active antimicrobial ingredients that are listed in the FDA monograph for *OTC Health-Care Antiseptic Drug Products* as an antiseptic handwash, [Pf] and

(2) Consist only of components which the intended use of each complies with one of the following:

(a) A threshold of regulation exemption under 21 CFR 170.39, *Threshold of Regulation for Substances Used in Food-Contact Articles*; [Pf] or

(b) 21 CFR 178, *Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers* as regulated for use as a food additive with conditions of safe use; [Pf] or

(c) A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR 182, *Substances Generally Recognized as Safe*, 21 CFR 184, *Direct Food Substances Affirmed as Generally Recognized as Safe*, or 21 CFR 186, *Indirect Food Substances Affirmed as Generally Recognized as Safe for Use in Contact with Food*, and in FDA's *Inventory of GRAS Notices;* [Pf] or

(d) A prior sanction listed under 21 CFR 181,*Prior Sanctioned Food Ingredients,* [Pf] or

(e) a *Food Contact Notification* that is effective, [Pf] and

(3) Be applied only to hands that are cleaned as specified under 2-301.12. [Pf]

(B) If a hand antiseptic does not meet the criteria specified under (A)(2) of this section, use shall be:

(1) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; [Pf] or

(2) Limited to situations that involve no direct contact with food by the bare hands. [Pf]

(C) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 MG/L chlorine. [Pf]

2-302 Fingernails

2-302.11 Maintenance.

(A) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. Nail length shall not extend beyond the fingertips. [Pf]

(B) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food. [Pf]

2-303 Jewelry

2-303.11 Prohibition.

(A) Except for a plain ring such as a wedding band, while preparing food, food employees shall not wear jewelry, including medical information jewelry, on their arms or hands.

(B) If jewelry cannot be removed for medical or religious reasons, it must be covered with a clean intact single-use glove when working with food.

2-304 Outer Clothing

2-304.11 Clean Condition.

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

2-4 HYGIENIC PRACTICES

2-401 Food Contamination Prevention

2-401.11 Eating, Drinking, or Using Tobacco.

(A) Except as specified in (B) of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food, clean equipment, utensils, linens, unwrapped single-service and single-use articles or other items needing protection cannot result.

(B) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

(1) The food employee's hands;

(2) The container; and

(3) Exposed food, clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2-401.12 Discharges from the Eyes, Nose, and Mouth.

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth shall not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

2-401.13 Use of Bandages, Finger Cots, or Finger Stalls.

If used, an impermeable cover such as a bandage, finger cot, or finger stall located on the wrist, hand, or finger of a food employee working with exposed food shall be covered with a single-use glove.

2-402 Hair Restraints

2-402.11 Effectiveness.

(A) Except as provided in (B) of this section, food employees shall wear hair restraints such as hats, hair covering and nets, beard restraints, and clothing that covers body hair that are designed and worn to effectively keep their hair from contacting exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles.

(B) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged food, hostesses, and wait staff, if they present a minimal risk of contaminating exposed food, clean equipment, utensils, linens and unwrapped single-service or single-use articles.

2-403 Animals

2-403.11 Handling Prohibition.

(A) Except as specified in (B) of this section, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in 6-501.115 (B)(2) through (5) or section 9-3 "Outdoor Pet Dining". Pf

(B) Food employees with service animals may handle or care for their service animals, and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacean in display tanks, if they wash their hands as specified in 2-301.12 and 2-301.14(C).

2-5 RESPONDING TO CONTAMINATION EVENTS

2-501 Procedures for Responding

2-501.11 Clean-up of Vomiting and Diarrheal Events.

A retail food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the retail food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter. Pf

Chapter 3 Food

3-1 CHARACTERISTICS

3-101 Condition

3-101.11 Safe, Unadulterated, and Honestly Presented.

Food shall be safe, unadulterated, and, as specified under 3-601.12, honestly presented. P

3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

3-201 Sources

3-201.11 Compliance with Food Law.

(A) Food shall be obtained from sources that comply with law. P

(B) Food prepared in a private home shall not be used or offered for human consumption in a retail food establishment. P

(C) Packaged food shall be labeled as specified in law, including 21 CFR 101, *Food Labeling*, 9 CFR 317, *Labeling, Marking Devices, and Containers*, and 9 CFR 381 Subpart N, *Labeling and Containers*, and as specified under 3-202.17 and 3-202.18.Pf

(D) Fish, other than those specified in 3-402.11(B), that are intended for consumption in raw or undercooked form and allowed as specified in 3-401.11(D), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 3-402.11 or if they are frozen on the premises as specified under 3-402.11 and records are retained as specified under 3-402.12.

(E) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 3-401.11(C) shall be:

(1) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef, [Pf] or

(2) Deemed acceptable by the Department based on other evidence,[Pf]

(3) If individually cut in a retail food establishment:

(a) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in (E)(1) of this section or identified as specified in (E)(2) of this section, [P]

(b) Prepared so they remain intact, [Pf] and

(c) If packaged for undercooking in a retail food establishment, labeled as specified in (E)(1) of this section or identified as specified in (E)(2) of this section. [Pf]

(F) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

(G) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

3-201.12 Food in a Hermetically Sealed Container.

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant. [P]

3-201.13 Fluid Milk, Dry Milk, and Milk Products.

Fluid milk, dry milk, and milk products shall be obtained from sources that comply with Grade A standards as specified in law. [P]

3-201.14 Fish.

(A) Fish that are received for sale or service shall be:

(1) Commercially and legally caught or harvested, [P] or

(2) Approved for sale or service. [P]

(B) Molluscan shellfish that are recreationally caught may not be received for sale or service. [P]

3-201.15 Molluscan Shellfish.

(A) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*. [P]

(B) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the *Interstate Certified Shellfish Shippers List*. [P]

3-201.16 Wild Mushrooms.

(A) Except as specified in (B) of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert as specified in *9-4,Wild Mushroom Foraging*. [P]

(B) This section does not apply to:

(1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

(2) Wild mushroom species, if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

3-201.17 Game Animals.

(A) If game animals are received for sale or service they shall be:

(1) Commercially raised for food [P] and:

(a) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, [P] or

(b) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, [P] and

(c) Raised, slaughtered, and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, [P] and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; [P]

(2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352, *Exotic Animals*; voluntary inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354, *Voluntary Inspection Of Rabbits And Edible Products Thereof*; [P]

(3) As allowed by law for wild game animals that are live-caught:

(a) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, [P] and

(b) Slaughtered and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, [P] and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; [P] or

(4) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:

(a) Receive a postmortem examination by an approved veterinarian or veterinarian's designee, [P] or

(b) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, [P] and

(c) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. [P]

(B) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17, *Endangered and Threatened Wildlife and Plants*.

3-202 Specifications for Receiving

3-202.11 Temperature.

(A) Except as specified in (B) of this section, refrigerated, time/temperature control for safety food shall be at a temperature of 41 degree F (5 degree C) or below when received. [P]

(B) If a temperature other than 41 degree F (5 degree C) for a time/temperature control for safety food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(C) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less. [P]

(D) Time/temperature control for safety food that is cooked to a temperature and for a time specified under 3-401.11 through 3-401.13 and received hot shall be at a temperature of 135 degrees F (57 degrees C) or above. [P]

(E) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen. [Pf]

(F) Upon receipt, time/temperature control for safety food shall be free of evidence of previous temperature abuse. [Pf]

3-202.12 Additives.

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to *Food Additives, Generally Recognized as Safe* or prior sanctioned substances that exceed amounts specified in 21 CFR 181 through 186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b), *Food Ingredients and Sources of Radiation*, that exceed provisions specified in 40 CFR 180, *Tolerances for Pesticides Chemicals in Food, and Exceptions*. [P]

3-202.13 Eggs.

Eggs shall be received clean and sound and shall not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in *United StatesStandards, Grades, and Weight Classes for Shell Eggs*, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.[P]

3-202.14 Egg and Milk Products, Pasteurized.

(A) Egg products shall be obtained pasteurized. [P]

(B) Fluid and dry milk and milk products used and served shall, except as specified in (E) of this section:

(1) Be obtained pasteurized; [P] and

(2) Comply with Grade A standards as specified in law. [P]

(C) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135, *Frozen desserts*. [P]

(D) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133, *Cheeses and Related Cheese Products,* for curing certain cheese varieties. [P]

(E) Packaged raw milk may be obtained for re-sale provided it meets the requirements of R.61-34, *Raw Milk for Human Consumption*.

3-202.15 Package Integrity.

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants. [Pf]

3-202.16 Ice.

Ice for use as a food or cooling medium shall be made from drinking water. [P]

3-202.17 Shucked Shellfish, Packing and Identification.

(A) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the [Pf]:

(1) Name, address, and certification number of the shucker, packer, or repacker of the molluscan shellfish and

(2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. [Pf]

(B) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, *Specific Administrative Decisions Regarding Interstate Shipments*, Section 1240.60(d), *Molluscan Shellfish*.

3-202.18 Shellstock Identification.

(A) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*, and that list: [Pf]

(1) Except as specified under (C) of this section, on the harvester's tag or label, the following information in the following order:

(a) The harvester's identification number that is assigned by the shellfish control authority, Pf

(b) The date of harvesting, Pf

(c) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested, Pf

(d) The type and quantity of shellfish, Pf and

(e) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for ninety (90) days"; Pf and

(2) Except as specified in (D) of this section, on each dealer's tag or label, the following information in the following order: Pf

(a) The dealer's name, address, and the certification number assigned by the shellfish control authority, Pf

(b) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested, Pf

(c) The same information as specified for a harvester's tag under (A)(1)(b) through (d) of this section, Pf and

(d) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for ninety (90) days." Pf

(B) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, *Specific Administrative Decisions Regarding Interstate Shipments*, Section 1240.60(d), *Molluscan Shellfish*.

(C) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(D) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under (A)(2)(a) and (b) of this section, individual dealer tags or labels need not be provided.

(E) The statement "Keep Refrigerated" or an equivalent statement must be included on the tag.

3-202.19 Shellstock Condition.

When received by a retail food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

3-202.110 Juice Treated.

Pre-packaged juice shall:

(A) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120, *Hazard Analysis and Critical Control (HACCP) Systems*; Pf and

(B) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24, *Process Controls.* [P]

3-203 Original Containers and Records

3-203.11 Molluscan Shellfish, Original Container.

(A) Except as specified in (B) through (D) of this section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(B) For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(1) The source of the shellstock on display is identified as specified under 3-202.18 and recorded as specified under 3-203.12 and

(2) The shellstock are protected from contamination.

(C) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

(1) The labeling information for the shellfish on display as specified under 3-202.17 is retained and correlated to the date when or dates during which the shellfish are sold or served, and

(2) The shellfish are protected from contamination.

(D) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

(1) The labeling information for the shellfish is on each consumer self-service container as specified under 3-202.17 and 3-602.11;

(2) The labeling information as specified under 3-202.17 is retained and correlated with the date when or dates during which the shellfish are sold or served;

(3) The labeling information and dates specified under (D)(2) of this section are maintained for ninety (90) days; and

(4) The shellfish are protected from contamination.

3-203.12 Shellstock, Maintaining Identification.

(A) Except as specified under (C)(2) of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty. [Pf]

(B) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label. [Pf]

(C) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety (90) calendar days from the date that is recorded on the tag or label, as specified under (B) of this section, by: [Pf]

(1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under (B) of this section; [Pf] and

(2) If shellstock are removed from its tagged or labeled container:

(a) Preserving source identification by using a record keeping system as specified under (C)(1) of this section, [Pf] and

(b) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer. [Pf]

3-3 PROTECTION FROM CONTAMINATION AFTER RECEIVING

3-301 Preventing Contamination by Employees

3-301.11 Preventing Contamination from Hands.

(A) Food employees shall wash their hands as specified under 2-301.12.

(B) Except when washing fruits and vegetables as specified under 3-302.15 or as specified in (D) of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. [P]

(C) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form. [Pf]

(D) Paragraph (B) of this section does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:

(1) Contains a raw animal food and is to be cooked in the retail food establishment to heat all parts of the food to the minimum temperatures specified in 3-401.11(A) and (B) or 3-401.12, or

(2) Does not contain a raw animal food but is to be cooked in the retail food establishment to heat all parts of the food to a temperature of at least 145 degree F (63 degree C).

3-301.12 Preventing Contamination When Tasting.

A food employee may not use a utensil more than once to taste food that is to be sold or served.[P]

3-302 Preventing Food and Ingredient Contamination

3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and Segregation.

(A) Food shall be protected from cross contamination by:

(1) Except as specified in (1)(d) below, separating raw animal foods during storage, preparation, holding, and display from:

(a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables, [P] and

(b) Cooked ready-to-eat food; [P] and

(c) Fruits and vegetables before they are washed; [P] and

(d) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(a) Using separate equipment for each type, [P] or

(b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, [P] and

(c) Preparing each type of food at different times or in separate areas; [P]

(3) Cleaning equipment and utensils as specified under 4-602.11(A) and sanitizing as specified under 4-703.11;

(4) Except as specified under 3-501.15(B)(2) and in (B) of this section, storing the food in packages, covered containers, or wrappings;

(5) Cleaning hermetically sealed containers of food of visible soil before opening;

(6) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(7) Storing damaged, spoiled, or recalled food being held in the retail food establishment as specified under 6-404.11; and

(8) Separating fruits and vegetables before they are washed, as specified under 3-302.15, from ready-to-eat food.

(B) Subparagraph (A)(4) of this section does not apply to:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

(3) Whole, uncut, processed meats such as country hams and smoked or cured sausages that are placed on clean, sanitized racks;

(4) Food being cooled as specified under 3-501.15(B)(2); or

(5) Shellstock.

3-302.12 Food Storage Containers, Identified with Common Name of Food.

Except for containers holding food that can be readily and unmistakably recognized, such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the retail food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food.

3-302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes.

Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not: [P]

(A) Cooked as specified under 3-401.11(A)(1) or (2); [P] or

(B) Included in 3-401.11(D). [P]

3-302.14 Protection from Unapproved Additives.

(A) Food shall be protected from contamination that may result from the addition of, as specified in 3-202.12:

(1) Unsafe or unapproved food or color additives; [P] and

(2) Unsafe or unapproved levels of approved food and color additives. [P]

(B) A food employee may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B_1,[P] or

(2) Except for grapes, serve or sell food specified under (B)(1) of this section that is treated with sulfiting agents before receipt by the retail food establishment. [P]

3-302.15 Washing Fruits and Vegetables.

(A) Except as specified in (B) of this section and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(B) Fruits and vegetables may be washed by using chemicals as specified under 7-204.12.

(C) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR 173.315, *Chemicals Used in the Washing or to Assist in the Peeling of Fruits and Vegetables*, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's instructions. [Pf]

3-303 Preventing Contamination from Ice Used as a Coolant

3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient.

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food. [P]

3-303.12 Storage or Display of Food in Contact with Water or Ice.

(A) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(B) Except as specified in (C) and (D) of this section, unpackaged food may not be stored in direct contact with undrained ice.

(C) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

(D) Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

3-304 Preventing Contamination from Equipment, Utensils, and Linens

3-304.11 Food Contact with Equipment and Utensils.

Food shall only contact surfaces of:

(A) Equipment and utensils that are cleaned as specified under Section 4-6 of this regulation and sanitized as specified under Section 4-7 of this regulation; [P]

(B) Single-service and single-use articles; [P] or

(C) Linens, such as cloth napkins, as specified in 3-304.13 that are laundered as specified under Section 4-8 of this regulation. [P]

3-304.12 In-Use, Between-Use Storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

(A) Except as specified under (B) of this section, in the food with their handles above the top of the food and the container;

(B) In food that is not a time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(C) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under 4-602.11 and 4-702.11;

(D) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

(E) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not time/temperature control for safety food; or

(F) In a container of water if the water is maintained at a temperature of at least 135 degrees F (57 degrees C) and the container is cleaned at a frequency specified under 4-602.11(D)(7).

3-304.13 Linens and Napkins, Use Limitation.

Linens, such as cloth napkins, shall not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

3-304.14 Wiping Cloths, Use Limitation.

(A) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

(1) Maintained dry; and

(2) Used for no other purpose.

(B) Cloths in-use for wiping counters and other equipment surfaces shall be:

(1) Held between uses in a chemical sanitizer solution at a concentration specified under 4-501.114, and

(2) Laundered daily as specified under 4-802.11(D).

(C) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.

(D) Dry wiping cloths and the chemical sanitizing solutions specified in (B)(1) of this section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

(E) Containers of chemical sanitizing solutions specified in (B)(1) of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

(F) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

3-304.15 Gloves, Use Limitation.

(A) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. [P]

(B) Except as specified in (C) of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under Section 3-4 such as frozen food or a primal cut of meat.

(C) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(D) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under Section 3-4 such as frozen food or a primal cut of meat.

3-304.16 Using Clean Tableware for Second Portions and Refills.

(A) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer to provide second portions or refills.

(B) Except as specified in (C) of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

(C) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under 4-204.13(A), (B), and (D).

3-304.17 Refilling Returnables.

(A) Except as specified in (B) through (E) of this section, empty containers returned to a retail food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.[P]

(B) A take-home food container returned to a retail food establishment may be refilled at a retail food establishment with food if the food container is:

(1) Designed and constructed for reuse and in accordance with the requirements specified under Sections 4-1 and 4-2; [P]

(2) One that was initially provided by the retail food establishment to the consumer, either empty or filled with food by the retail food establishment, for the purpose of being returned for reuse;

(3) Returned to the retail food establishment by the consumer after use;

(4) Subject to the following steps before being refilled with food:

(a) Cleaned as specified under Section 4-6 of this regulation;

(b) Sanitized as specified under Section 4-7 of this regulation;

(c) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under Sections 4-1 and 4-2.[P]

(C) A take-home food container returned to a retail food establishment may be refilled at a retail food establishment with beverage if:

(1) The beverage is not a time/temperature control for safety food;

(2) The design of the container, the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the retail food establishment;

(3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(4) The consumer-owned container returned to the retail food establishment for refilling is refilled for sale or service only to the same consumer; and

(5) The container is refilled by:

(a) An employee of the retail food establishment, or

(b) The owner of the container, if the beverage system includes a contamination-free transfer process as specified under 4-204.13(A), (B), and (D)that cannot be bypassed by the container owner.

(D) Consumer-owned personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 4-204.13(A), (B), and (D).

(E) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

3-305 Preventing Contamination from the Premises

3-305.11 Food Storage.

(A) Except as specified in (B) and (C) of this section, food shall be protected from contamination by storing the food:

(1) In a clean, dry location;

(2) Where it is not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

(B) Food in packages and working containers may be stored less than (6) inches (15 cm) above the floor on case lot handling equipment as specified under 4-204.122.

(C) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

3-305.12 Food Storage, Prohibited Areas.

Food shall not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

(F) Under drain or sewer lines that are not shielded to intercept potential drips;

(G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(H) Under open stairwells; or

(I) Under other sources of contamination.

3-305.14 Food Preparation.

During preparation, unpackaged food shall be protected from environmental sources of contamination.

3-306 Preventing Contamination by Consumers

3-306.11 Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means. [P]

3-306.12 Condiments, Protection.

Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

3-306.13 Consumer Self-Service Operations.

(A) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. [P] This paragraph does not apply to:

(1) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

(2) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or

(3) Raw, frozen, shell-on shrimp, or lobster.

(B) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination. [Pf]

(C) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures. [Pf]

3-306.14 Returned Food and Re-Service of Food.

(A) Except as specified in (B) of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption. [P]

(B) Except as specified under 3-801.11(G), a container of food that is not a time/temperature control for safety food may be re-served from one consumer to another if:

(1) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(2) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

3-307 Preventing Contamination from Other Sources

3-307.11 Miscellaneous Sources of Contamination.

Food shall be protected from contamination that may result from a factor or source not specified under 3-301 through 3-306.

3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

3-401 Cooking

3-401.11 Raw Animal Foods.

(A) Except as specified under (B), (C), and (D) of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(1) 145 degrees F (63 degrees C) or above for fifteen (15) seconds for: P

(a) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service, P and

(b) Except as specified under (A)(2) and (A)(3) and (B), and in (C) of this section, fish and intact meat including game animals commercially raised for food as specified under 3-201.17(A)(1) and game animals under a voluntary inspection program as specified under 3-201.17(A)(2);P

(2) 155 degrees F (68 degrees C) for seventeen (17) seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 3-201.17(A)(1), and game animals under a voluntary inspection program as specified under 3-201.17(A)(2); and raw eggs that are not prepared as specified under (A)(1)(a) of this section, that corresponds to that temperature in Table 3.1: P

Table 3.1 Minimum	
Temperature Degrees F (degrees C)	**Time**
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	Less than 1 second (instantaneous)

; or

(3) 165 degrees F (74 degrees C) or above for less than one (1) second(instantaneous) for poultry, baluts, wild game animals as specified under 3-201.17(A)(3) and (4), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites. P

(B) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

(1) As specified in the following Table 3.2 to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature: P

Table 3.2			
Temperature Degree F (C)	**Time[1] in Minutes**	**Temperature Degree F (C)**	**Time[1] in Seconds**
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14

140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		
[1]Holding time may include post-oven heat rise.			

; and

(2) If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight in the following Table 3.3 and that is held at that temperature. [Pf]

Table 3.3	**Oven Temperature Based on Roast Weight**	
Oven Type	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still Dry	350 degrees F (177 degrees C) or more	250 degrees F (121 degrees C) or more
Convection	325 degrees F (163 degrees C) or more	250 degrees F (121 degrees C) or more
High Humidity[1]	250 degrees F (121 degrees C) or less	250 degrees F (121 degrees C) or less
[1]Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber, exit of the oven, or in a moisture-impermeable bag that provides 100 percent humidity.		

(C) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(1) The food establishment serves a population that is not a highly susceptible population,

(2) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under 3-201.11(E), and

(3) The steak is cooked on both the top and bottom to a surface temperature of 145 degrees F (63 degrees C) or above and a cooked color change is achieved on all external surfaces.

(D) A raw animal food, such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food, such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks, as specified in (C) of this section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(1) As specified under 3-801.11(C)(1) and (2), the retail food establishment serves a population that is not a highly susceptible population;

(2) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; [Pf] and

(3) The consumer is informed as specified under 3-603.11 that to ensure its safety, the food should be cooked as specified under (A) or (B) of this section; or

(4) The Department grants a variance from (A) or (B) of this section as specified in 8-103.10 based on a HACCP plan that:

(a) Is submitted by the permit holder and approved as specified under 8-103.11,

(b) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

(c) Verifies that equipment and procedures for food preparation and training of food employees at the retail food establishment meet the conditions of the variance.

3-401.12 Microwave Cooking.

Raw animal foods cooked in a microwave oven shall be:

(A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(B) Covered to retain surface moisture;

(C) Heated to a temperature of at least 165 degrees F (74 degrees C) in all parts of the food;[P] and

(D) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

3-401.13 Plant Food for Cooking for Hot Holding.

Plant foods that are cooked for hot holding shall be cooked to a temperature of 135 degrees F (57 degrees C).[Pf]

3-401.14 Non-Continuous Cooking of Raw Animal Foods.

Raw animal foods that are cooked using a non-continuous cooking process shall be:

(A) Subject to an initial heating process that is no longer than sixty (60) minutes in duration; [P]

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 3-501.14(A); [P]

(C) After cooling, held frozen or cold, as specified for time/temperature control for safety food under 3-501.16(A)(2);[P]

(D) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time as specified under section 3-401.11 (A) through (C) of the regulation; [P]

(E) Cooled according to the time and temperature parameters specified for cooked time/temperature control for safety food under 3-501.14(A) if not either hot held as specified under 3-501.16(A), served immediately, or held using time as a public health control as specified under 3-501.19 after complete cooking; [P] and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior approval from the Department; [Pf]

(2) Are maintained in the retail food establishment and are available to the Department upon request; [Pf]

(3) Describe how the requirements specified under (A) through (E) of this section are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met; [Pf]

(4) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under (D) of this section prior to being offered for sale or service; [Pf] and

(5) Describe how the foods, after initial heating but prior to cooking as specified under (D) of this section, are to be separated from ready-to-eat foods as specified under 3-302.11 (A). [Pf]

3-402 Freezing

3-402.11 Parasite Destruction.

(A) Except as specified in (B) of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

(1) Frozen and stored at a temperature of -4 degrees F (-20 degrees C) or below for a minimum of one hundred sixty-eight (168) hours (seven (7) days) in a freezer; [P]

(2) Frozen at -31 degrees F (-35 degrees C) or below until solid and stored at -31 degrees F (-35 degrees C) or below for a minimum of fifteen (15) hours; [P] or

(3) Frozen -31 degrees F (-35 degrees C) or below until solid and stored at -4 degrees F (-20 degrees C) or below for a minimum of twenty-four (24) hours. [P]

(B) Paragraph (A) of this section does not apply to:

(1) Molluscan shellfish;

(2) A scallop product consisting only of the shucked adductor muscle;

(3) Tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern); or

(4) Aquacultured fish, such as salmon, that:

(a) If raised in open water, are raised in net-pens, or

(b) Are raised in land-based operations such as ponds or tanks, and

(c) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.

(5) Fish eggs that have been removed from the skein and rinsed.

3-402.12 Records, Creation and Retention.

(A) Except as specified in 3-402.11(B) and (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish. [Pf]

(B) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 3-402.11 may substitute for the records specified under (A) of this section.

(C) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 3-402.11(B)(4), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 3-402.11(B)(4) shall be obtained by the person in charge and retained in the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish. [Pf]

3-403 Reheating

3-403.10 Preparation for Immediate Service.

Cooked and refrigerated food that is fully prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

3-403.11 Reheating for Hot Holding.

(A) Except as specified under (B), (C) and (E) of this section, time/temperature control for safety food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees F (74 degrees C) for fifteen (15) seconds. [P]

(B) Except as specified under (C) of this section, time/temperature control for safety food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees F (74 degrees C) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating. [P]

(C) Ready-to-eat time/temperature control for safety food that has been commercially processed and packaged in a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant shall be heated to a temperature of at least 135 degrees F (57 degrees C) for hot holding. [P]

(D) Reheating for hot holding as specified under (A) through (C) of this section shall be done rapidly and the time the food is between 41 degrees F (5 degrees C) and the temperatures specified under (A) through (C) of this section may not exceed two (2) hours. [P]

(E) Remaining unsliced portions of meat roasts that are cooked as specified under 3-401.11(B) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 3-401.11(B).

3-404 Other Methods

3-404.11 Treating Juice.

Juice packaged in a retail food establishment shall be:

(A) Treated under a HACCP plan as specified in 8-201.14 to attain a 5-log reduction, which is equal to a 99.999 percent reduction, of the most resistant microorganism of public health significance; [P] or

(B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance, as specified in 21 CFR 101.17(g), *Food Labeling, Warning, Notice, and Safe Handling Statements*, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with

the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." [Pf]

3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

3-501 Temperature and Time Control

3-501.11 Frozen Food.

Stored frozen foods shall be maintained frozen.

3-501.12 Time/Temperature Control for Safety, Slacking.

Frozen time/temperature control for safety food that is slacked to moderate the temperature shall be held:

(A) Under refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less; or

(B) At any temperature if the food remains frozen.

3-501.13 Thawing.

Except as specified in (D) of this section, time/temperature control for safety food shall be thawed:

(A) Under refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less; or

(B) Completely submerged under cold running water:

(1) At a water temperature of 70 degrees F (21 degrees C) or below,

(2) With sufficient water velocity to agitate and float off loose particles in an overflow, and

(3) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41 degrees F (5 degrees C), or

(4) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 3-401.11(A) or (B) to be above 41 degrees F (5 degrees C) for more than four (4) hours including:

(a) The time the food is exposed to the running water and the time needed for preparation for cooking, or

(b) The time it takes under refrigeration to lower the food temperature to 41 degrees F (5 degrees C);

(C) As part of a cooking process if the food that is frozen is:

(1) Cooked as specified under 3-401.11(A) or (B) or 3-401.12 or

(2) Thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process; or

(D) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(E) Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

(1) Prior to its thawing under refrigeration as specified in (A) of this section; or

(2) Prior to or immediately upon completion of its thawing using procedures specified in (B) of this section.

3-501.14 Cooling.

(A) Cooked time/temperature control for safety food shall be cooled:

(1) Within two (2) hours from 135 degrees F (57 degrees C) to 70 degrees F (21 degrees C); [P] and

(2) Within a total of six (6) hours from 135 degrees F (57 degrees C) to 41 degrees F (5 degrees C) or less. [P]

(B) Time/temperature control for safety food shall be cooled within four (4) hours to 41 degrees F (5 degrees C) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna. [P]

(C) Except as specified under (D) of this section, a time/temperature control for safety food received in compliance with laws allowing a temperature above 41 degrees F (5 degrees C) during shipment from the supplier as specified in 3-202.11(B) shall be cooled within 4 hours to 41 degrees F (5 degrees C) or less; [P]

(D) Raw eggs shall be received as specified under 3-202.11(C) and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less. [P]

3-501.15 Cooling Methods.

(A) Cooling shall be accomplished in accordance with the time and temperature criteria specified under 3-501.14 by using one or more of the following methods based on the type of food being cooled:

(1) Placing the food in shallow pans; [Pf]

(2) Separating the food into smaller or thinner portions; [Pf]

(3) Using rapid cooling equipment; [Pf]

(4) Stirring the food in a container placed in an ice water bath; [Pf]

(5) Using containers that facilitate heat transfer; [Pf]

(6) Adding ice as an ingredient; or [Pf]

(7) Other effective methods. [Pf]

(B) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

(1) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(2) Loosely covered or uncovered if protected from overhead contamination as specified in 3-305.11(A)(2) during the cooling period to facilitate heat transfer from the surface of the food.

3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding.

(A) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 3-501.19, and except as specified under (B) and in (C) of this section, time/temperature control for safety food shall be maintained:

(1) At 135 degrees F (57 degrees C) or above, except that roasts cooked to a temperature and for a time specified in 3-401.11(B) or reheated as specified in 3-403.11(E) may be held at a temperature of 130 degrees F (54 degrees C) or above; [P] or

(2) At 41 degrees F (5 degrees C) or less. [P]

(B) Eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less. [P]

(C) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (A) of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified under 4-204.13(E).

3-501.17 Ready to Eat, Time/Temperature Control for Safety Food, Date Marking.

(A) Except when packaging food using a reduced oxygen packaging method as specified under 3-502.12 and except as specified in (E) and (F) of this section, refrigerated, ready-to-eat, time/temperature control for safety food prepared and held in a retail food establishment for more than twenty-four (24) hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of 41 degrees F (5 degrees C) or less for a maximum of seven (7) days. The day of preparation shall be counted as Day One (1).[Pf]

(B) Except as specified in (E) through (G) of this section, refrigerated, ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a retail food establishment and if the food is held for more than twenty-four (24) hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (A) of this section and: [Pf]

(1) The day the original container is opened in the retail food establishment shall be counted as Day One (1);[Pf] and

(2) The day or date marked by the retail food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety. [Pf]

(C) A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient. [Pf]

(D) A date marking system that meets the criteria stated in (A) and (B) of this section may include:

(1) Using a method approved by the Department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(2) Marking the date or day of preparation with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under (A) of this section;

(3) Marking the date or day the original container is opened in a retail food establishment with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under (B) of this section; or

(4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the Department upon request.

(E) Paragraphs (A) and (B) of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(F) Paragraphs (A) and (B) of this section do not apply to shellstock.

(G) Paragraph (B) of this section does not apply to the following foods prepared and packaged by a food processing plant inspected by the appropriate regulatory authority:

(1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110, *Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food;*

(2) Hard cheeses containing not more than thirty- nine (39) percent moisture as defined in 21 CFR 133, *Cheeses and Related Cheese Products*, such as cheddar, gruyere, parmesan and reggiano, and romano;

(3) Semi-soft cheeses containing more than thirty-nine (39) percent moisture, but not more than fifty (50) percent moisture, as defined in 21 CFR 133, *Cheeses and Related Cheese Products*, such as blue, edam, gorgonzola, gouda, and monterey jack;

(4) Cultured dairy products as defined in 21 CFR 131, *Milk and Cream*, such as yogurt, sour cream, and buttermilk;

(5) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR 114, *Acidified Foods*;

(6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and

(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

3-501.18 Ready-to-Eat, Time/Temperature Control for Safety Food, Disposition.

A food specified in 3-501.17(A) or (B) shall be discarded if it:

(A) Exceeds the temperature and time combination specified in 3-501.17(A), except time that the product is frozen; [P]

(B) Is in a container or package that does not bear a date or day; [P] or

(C) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 3-501.17(A).[P]

3-501.19 Time as a Public Health Control Measure.

(A) Except as specified under (D) of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:

(1) Written procedures shall be prepared in advance, maintained in the retail food establishment and made available to the Department upon request that specify: Pf

(a) Methods of compliance with (B)(1) through (3) or (C)(1) through (5) of this section; Pf and

(b) Methods of compliance with 3-501.14 for food that is prepared, cooked, and refrigerated before time is used as a public health control. Pf

(B) If time without temperature control is used as the public health control up to a maximum of four (4) hours:

(1) The food shall have an initial temperature of 41 degrees F (5 degrees C) or less when removed from cold holding temperature control, or 135 degrees F (57 degrees C) or greater when removed from hot holding temperature control; P

(2) The food shall be marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is removed from temperature control; Pf

(3) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four (4) hours from the point in time when the food is removed from temperature control; P and

(4) The food in unmarked containers or packages, or marked to exceed a four (4) hour limit shall be discarded. P

(C) If time without temperature control is used as the public health control up to a maximum of six (6) hours:

(1) The food shall have an initial temperature of 41 degrees F (5 degrees C) or less when removed from temperature control and the food temperature may not exceed 70 degrees F (21 degrees C) within a maximum time period of six (6) hours; P

(2) The food shall be monitored to ensure the warmest portion of the food does not exceed 70 degrees F (21 degrees C) during the six (6) hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70 degrees F (21 degrees C) during the six (6) hour holding period;Pf

(3) The food shall be marked or otherwise identified to indicate: Pf

(a) The time when the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control, Pf and

(b) The time that is six (6) hours past the point in time when the food is removed from cold holding temperature control; Pf

(4) The food shall be:

(a) Discarded if the temperature of the food exceeds 70 degrees F (21 degrees C),P or

(b) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control; [P] and

(5) The food in unmarked containers or packages, or marked with a time that exceeds the six (6) hour limit shall be discarded. [P]

(D) A retail food establishment that serves a highly susceptible population may not use time as specified under (A), (B), or (C) of this section as the public health control for raw eggs.

3-502 Specialized Processing Methods

3-502.11 Special Processes Requiring a Variance.

A retail food establishment shall obtain a variance from the Department as specified in 8-103.10 and under 8-103.11 before: [Pf]

(A) Smoking food as a method of food preservation rather than as a method of flavor enhancement;[Pf]

(B) Curing food; [Pf]

(C) Using food additives or adding components such as vinegar: [Pf]

(1) As a method of food preservation rather than as a method of flavor enhancement, [Pf] or

(2) To render a food so that it is not a time/temperature control of safety food; [Pf]

(D) Packaging time/temperature control for safety food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under 3-502.12; [Pf]

(E) Custom processing animals that are for personal use as food and not for sale or service in a food establishment; [Pf]

(F) Preparing food by another method that is determined by the Department to require a variance; [Pf]

(G) Sprouting seeds or beans; [Pf] or

(H) Using additives or acidification when the process is for flavor enhancement only. Retail food establishments using additives or acidification for flavor enhancement only shall provide a written statement, in lieu of a HACCP plan, which shall describe foods prepared and essential safety measures implemented.

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

(A) Except for a retail food establishment that obtains a variance as specified under 3-502.11, a retail food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*. [P]

(B) Except as specified under (F) of this section, a retail food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall implement a HACCP plan that contains the information specified under 8-201.14(C) and (D) and that: [Pf]

(1) Identifies the food to be packaged; [Pf]

(2) Except as specified under (C) through (E) of this section, requires that the packaged food shall be maintained at 41 degrees F (5 degrees C) or less and meet at least one of the following criteria: [Pf]

(a) Has an A_w of 0.91 or less, [Pf]

(b) Has a pH of 4.6 or less, [Pf]

(c) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, *Use of Food Ingredients and Sources of Radiation*, and is received in an intact package, [Pf] or

(d) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables; [Pf]

(3) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: [Pf]

(a) Maintain the food at 41 degrees F (5 degrees C) or below, [Pf] and

(b) Discard the food if within thirty (30) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption; [Pf]

(4) Limits the refrigerated shelf life to no more than thirty (30) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; [P]

(5) Includes operational procedures that:

(a) Prohibit contacting ready-to-eat food with bare hands as specified under 3-301.11(B),[Pf]

(b) Identify a designated work area and the method by which: [Pf]

(i) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, [Pf] and

(ii) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, [Pf] and

(c) Delineate cleaning and sanitization procedures for food-contact surfaces; [Pf] and

(6) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the: [Pf]

(a) Concepts required for a safe operation, [Pf]

(b) Equipment and facilities, [Pf] and

(c) Procedures specified under (B)(5) of this section and 8-201.14 (C) and (D).[Pf]

(7) Is provided to the Department prior to implementation as specified under 8-201.13 (B).

(C) Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a retail food establishment may not package fish using a reduced oxygen packaging method. [P]

(D) Except as specified under (C) and (F) of this section, a retail food establishment that packages time/temperature control for safety food using a cook-chill or sous vide process shall:

(1) Provide to the Department prior to implementation a HACCP plan that contains the information as specified under 8-201.14 (C) and (D); [Pf]

(2) Ensure the food is:

(a) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer, [Pf]

(b) Cooked to heat all parts of the food to a temperature and for a time as specified under 3-401.11 (A),(B), and (C),[P]

(c) Protected from contamination before and after cooking as specified under 3-3 and 3-4,[P]

(d) Placed in a package with an oxygen barrier and sealed before cooking or placed in a package and sealed immediately after cooking and before reaching a temperature below 135 degrees F (57 degrees C),[P]

(e) Cooled to 41 degrees F (5 degrees C) in the sealed package or bag as specified under 3-501.14 and: [P]

(i) Cooled to 34 degrees F (1 degrees C) within forty-eight (48) hours of reaching 41 degrees F (5 degrees C) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging; [P]

(ii) Held at 41 degrees F (5 degrees C) or less for no more than seven (7) days, at which time the food must be consumed or discarded; [P] or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used. [P]

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, [Pf]

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, [Pf] and

(h) Labeled with the product name and the date packaged; [Pf] and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:

(a) Make such records available to the Department upon request[Pf] and

(b) Hold such records for at least six (6) months; [Pf] and

(4) Implement written operational procedures as specified under (B)(5) of this section and a training program as specified under (B)(6) of this section. [Pf]

(E) Except as specified under (F) of this section, a retail food establishment that packages cheese using a reduced oxygen packaging method shall:

(1) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the retail food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, *Hard Cheeses*, 21 CFR 133.169, *Pasteurized Process Cheese* or 21 CFR 133.187, *Semisoft Cheeses*; [P]

(2) Have a HACCP plan that contains the information specified under 8-201.14 (C) and (D) and as specified under (B)(1), (B)(3)(a), (B)(5), and (B)(6) of this section; [Pf]

(3) Labels the package on the principal display panel with a "use by" date that does not exceed thirty (30) days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; [Pf] and

(4) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging. [Pf]

(F) A HACCP plan is not required when a retail food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

(1) Labeled with the production time and date,

(2) Held at 41 degrees F (5 degrees C) or less during refrigerated storage, and

(3) Removed from its package in the retail food establishment within forty-eight (48) hours after packaging.

3-6 FOOD IDENTITY, PRESENTATION, AND CONSUMER ADVISORY

3-601 Accurate Representation

3-601.11 Standards of Identity.

Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319, *Definitions and Standards of Identity or Composition*, and the general requirements in 21 CFR 130, *Food Standards: General* and 9 CFR 319 Subpart A, *General*.

3-601.12 Honestly Presented.

(A) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

(B) Food or color additives, colored overwraps, or lights shall not be used to misrepresent the true appearance, color, or quality of a food.

3-602 Labeling

3-602.11 Food Labels.

(A) Food packaged in a retail food establishment shall be labeled as specified in law.

(B) Label information shall include:

(1) The common name of the food or, absent a common name, an adequately descriptive identity statement;

(2) The name and place of business of the manufacturer, packer, or distributor; and

(3) The name of the food source for each major food allergen contained in the food or a disclaimer that any major food allergen may be contained in the food.

(C) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(1) The manufacturer's or processor's label that was provided with the food or

(2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1) - (3) of this section.

(D) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

(1) A health, nutrient content, or other claim is not made;

(2) There are no state or local laws requiring labeling; and

(3) The food is manufactured or prepared on the premises of the retail food establishment or at another retail food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

3-603 Consumer Advisory

3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.

(A) Except as specified in 3-401.11(C), 3-401.11(D)(4), and 3-801.11(C), if an animal food, such as beef, eggs, fish, lamb, pork, poultry, or shellfish, is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder as specified in (B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. [Pf]

(B) Disclosure shall include:

(1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)";[Pf] or

(2) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw, or undercooked, or contain (or may contain) raw or undercooked ingredients. [Pf]

(C) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(1) Regarding the safety of these items, written information is available upon request; [Pf]

(2) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; [Pf] or

(3) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions. [Pf]

(D) Packaged raw milk may be sold in packaged form provided it is bottled pursuant to the requirements of R.61-34, *Raw Milk for Human Consumption,* and provided a disclosure and reminder placard that is located at the point of sale. [Pf]

3-7 CONTAMINATED FOOD

3-701 Disposition

3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(A) A food that is unsafe, adulterated, or not honestly presented as specified under 3-101.11 shall be discarded or reconditioned according to an approved procedure. [P]

(B) Food that is not from an approved source as specified under 3-201.11 through 3-201.17 shall be discarded. [P]

(C) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 2-201.12 shall be discarded. [P]

(D) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. [P]

3-8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

3-801 Additional Safeguards

3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

In a retail food establishment that serves a highly susceptible population:

(A) The following criteria shall apply to juice:

(1) For the purposes of this paragraph only, children who are age nine (9) or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

(2) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, 101.17(g) *Food Labeling, Warning, Notice, and Safe Handling Statements*, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified under 3-404.11(B) may not be served or offered for sale; [P] and

(3) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified under 8-201.14(B) through (E) and as specified in 21 CFR Part 120, *Hazard Analysis and Critical Control Point (HACCP) Systems*, Subpart B, *Pathogen Reduction*, 120.24, *Process Controls*. [P]

(B) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of: P

(1) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages P and

(2) Except as specified in (F) of this section, recipes in which more than one egg is broken and the eggs are combined; P

(C) The following foods may not be served or offered for sale in a ready-to-eat form: P

(1) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare, P

(2) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; P and

(3) Raw seed sprouts. P

(D) Food employees may not contact ready-to-eat food as specified under 3-301.11(B). P

(E) Time only, as the public health control as specified under 3-501.19(D), may not be used for raw eggs. P

(F) Subparagraph (B)(2) of this section does not apply if:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 3-401.11(A)(1), and served immediately, such as an omelet, soufflé, or scrambled eggs;

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(3) The preparation of the food is conducted under a HACCP plan that:

(a) Identifies the food to be prepared,

(b) Prohibits contacting ready-to-eat food with bare hands,

(c) Includes specifications and practices that ensure:

(i) *Salmonella* Enteritidis growth is controlled before and after cooking, and

(ii) *Salmonella* Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 3-401.11(A)(2),

(d) Contains the information specified under 8-201.14(D) including procedures that:

(i) Control cross contamination of ready-to-eat food with raw eggs and

(ii) Delineate cleaning and sanitization procedures for food-contact surfaces, and

(e) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(G) Except as specified in (H) of this section, food may be re-served as specified under 3-306.14(B)(1) and (2).

(H) Food may not be re-served under the following conditions:

(1) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine or protective environment isolation may not be re-served to others outside.

(2) Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

Chapter 4 Equipment, Utensils, and Linens

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

4-101 Multiuse

4-101.11 Characteristics.

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and, under normal use conditions, utensils and food-contact surfaces shall be: [P]

(A) Safe; [P]

(B) Durable, corrosion-resistant, and nonabsorbent;

(C) Sufficient in weight and thickness to withstand repeated warewashing;

(D) Finished to have a smooth, easily cleanable surface; and

(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in (B) and (C) of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.

(B) Cast iron may be used as a surface for cooking.

(C) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

4-101.13 Lead, Use Limitation.

(A) Ceramic, china, crystal utensils, and decorative utensils, such as hand-painted ceramic or china, that are used in contact with food shall be lead-free or contain levels of lead not exceeding acceptable limits of the following utensil categories: [P]

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls greater than or equal to 1.1 Liter (1.16 Quart)	1.0
Small Hollowware (excluding cups & mugs)	Bowls less than 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

(B) Pewter alloys containing lead in excess of 0.05 percent shall not be used as a food-contact surface. [P]

(C) Solder and flux containing lead in excess of 0.2 percent shall not be used as a food-contact surface.

4-101.14 Copper, Use Limitation.

(A) Except as specified in (B) of this section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below six (6.0) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator. [P]

(B) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six (6.0) in the pre-fermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

4-101.15 Galvanized Metal, Use Limitation.

Galvanized metal shall not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food. [P]

4-101.16 Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

4-101.17 Wood, Use Limitations.

(A) Except as specified in (B), (C), (D), (E), and (F)of this section, wood and wood wicker may not be used as a food-contact surface.

(B) Hard maple or an equivalently hard, close-grained wood may be used for:

(1) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110 degrees C (230 degrees F) or above.

(3) Bagel boards including a laminated hardwood may be acceptable if the food-contact surface is smooth and in good repair.

(C) Cedar planks intended for grilling fish, provided only for this purpose, and discarded after a single use.

(D) Whole, uncut, raw fruits and vegetables and nuts in the shell may be kept in the wood shipping containers in which they were received until the fruits, vegetables, or nuts are used.

(E) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(1) Untreated wood containers; or

(2) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800, *Preservatives for Wood*.

(F) Wicker may be used only when suitably lined.

4-101.18 Nonstick Coating, Use Limitation

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

4-101.19 Nonfood-contact Surfaces.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, smooth material.

4-102 Single-Service and Single-Use

4-102.11 Characteristics.

Materials that are used to make single-service and single-use articles:

(A) Shall not:

(1) Allow the migration of deleterious substances[P] or

(2) Impart colors, odors, or tastes to food; and

(B) Shall be:

(1) Safe[P] and

(2) Clean.

4-2 DESIGN AND CONSTRUCTION

4-201 Durability and Strength

4.201.11 Equipment and Utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

4-201.12 Food Temperature Measuring Devices.

Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used. [P]

4-202 Cleanability

4-202.11 Food-Contact Surfaces.

(A) Multiuse food-contact surfaces shall be:

(1) Smooth; [Pf]

(2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections [Pf]

(3) Free of sharp internal angles, corners, and crevices; [Pf]

(4) Finished to have smooth welds and joints; [Pf] and

(5) Except as specified in (B) of this section, accessible for cleaning and inspection by one of the following methods:

(a) Without being disassembled, [Pf] or

(b) By disassembling without the use of tools, [Pf] or

(c) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches. [Pf]

(B) Subparagraph (A)(5) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

4-202.12 CIP Equipment.

(A) CIP equipment shall meet the characteristics specified under 4-202.11 and shall be designed and constructed so that:

(1) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, [Pf] and

(2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(B) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

4-202.13 "V" Threads, Use Limitation.

Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

4-202.14 Hot Oil Filtering Equipment.

Hot oil filtering equipment shall meet the characteristics specified under 4-202.11 or 4-202.12 and shall be readily accessible for filter replacement and cleaning of the filter.

4-202.15 Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

4-202.16 Nonfood-Contact Surfaces.

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

4-202.17 Kick Plates, Removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(A) Removable by one of the methods specified under 4-202.11(A)(5) or capable of being rotated open and

(B) Removable or capable of being rotated open without unlocking equipment doors.

4-202.18 Ventilation Hood Systems, Filters.

Filters and other grease-extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

4-203 Accuracy

4-203.11 Temperature Measuring Devices, Food.

(A) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to plus or minus one (1) degrees C in the intended range of use. [Pf]

(B) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus two (2) degrees F in the intended range of use. [Pf]

4-203.12 Temperature Measuring Devices, Ambient Air and Water.

(A) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus one point five (1.5) degrees C in the intended range of use. [Pf]

(B) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus three (3) degrees F in the intended range of use. [Pf]

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one (1) pound per square inch (7 kilopascals) or smaller and shall be accurate to plus or minus two (2) pounds per square inch (plus or minus 14 kilopascals) in the range indicated on the manufacturer's data plate.

4-204 Functionality

4-204.11 Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, filters, and ducting shall be of commercial type and designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

4-204.12 Equipment Openings, Closures, and Deflectors.

(A) A cover or lid for equipment shall overlap the opening and be sloped to drain.

(B) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least five (5) millimeters (two-tenths of an inch).

(C) Except as specified under (D) of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

(D) If a watertight joint is not provided:

(1) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

(2) The opening shall be flanged as specified under (B) of this section.

4-204.13 Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(B) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment or

(2) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

(D) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing equipment in which time/temperature control for safety food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under 3-501.16(A) shall:

(1) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; [P] and

(2) Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006, *Manual Food and Beverage Dispensing Equipment*. [P]

4-204.15 Bearings and Gear Boxes, Leakproof.

Equipment containing bearing and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

4-204.16 Beverage Tubing, Separation.

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

4-204.17 Ice Units, Separation of Drains.

Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

4-204.18 Condenser Unit, Separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

4-204.110 Molluscan Shellfish Tanks.

Molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only. [P]

4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(B) Except as specified in (C) of this section, cold or hot holding equipment used for time/temperature control safety food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

(C) Paragraph (B) of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

(D) Temperature measuring devices shall be designed to be easily readable.

(E) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale or digital readout in increments no greater than 2 degrees F (1 degree C) in the intended range of use. [Pf]

4-204.113 Warewashing Machine, Data Plate, Operating Specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(A) Temperature required for washing, rinsing, and sanitizing;

(B) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(C) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

4-204.114 Warewashing Machines, Internal Curtains.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

4-204.115 Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

(A) In each wash and rinse tank; [Pf] and

(B) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank. [Pf]

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

(A) Designed with an integral heating device, equipped with an integral thermometer, that is capable of maintaining water at a temperature not less than 171 degrees F (77 degrees C);[Pf] and

(B) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water. [Pf]

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A warewashing machine shall be equipped to:

(A) Automatically dispense detergents and sanitizers; [Pf] and

(B) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles. [Pf]

4-204.118 Warewashing Machines, Flow Pressure Device.

(A) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine and

(B) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(C) Paragraphs (A) and (B) of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

4-204.119 Warewashing Sinks and Drainboards, Self-Draining.

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

4-204.120 Equipment Compartments, Drainage.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

4-204.122 Case Lot Handling Apparatuses, Moveability.

Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

4-205 Acceptability

4-205.10 Food Equipment, Certification, and Classification.

(A) Except as specified in (B) of this section, all equipment installed in a retail food establishment after the effective date of this regulation shall be certified or classified and listed to National Sanitation Foundation (NSF) / American National Standards Institute (ANSI) Commercial Food Equipment Standards, or Baking Industry Sanitation Standards Committee (BISSC), or other accredited ANSI food equipment sanitation certification recognized by the Department.

(B) Residential counter-top appliances, such as, but not limited to, coffee makers, a crockpot, toaster, toaster oven, microwave oven; and shelving, residential chest and upright freezers are exempt, but shall meet the requirements of 4-1 and 4-2.

4-3 NUMBERS AND CAPACITIES

4-301 Equipment

4-301.11 Cooling, Heating, and Holding Capacities.

Equipment for cooling and heating food and holding cold and hot foodshall be sufficient in number and capacity to maintain food temperatures as specified under Chapter 3.[Pf]

4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in (C) of this section, a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. [Pf]

(B) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in (C) of this section shall be used. [Pf]

(C) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:

(1) High-pressure detergent sprayers;

(2) Low- or line-pressure spray detergent foamers;

(3) Other task-specific cleaning equipment;

(4) Brushes or other implements;

(5) Two (2)-compartment sinks as specified under (D) and (E) of this section; or

(6) Receptacles that substitute for the compartments of a multicompartment sink.

(D) Before a two (2) compartment sink is used:

(1) The permit holder shall have its use approved and

(2) The permit holder shall limit the number of kitchenware items cleaned and sanitized in the two (2) compartment sink, shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift, and shall:

(a) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and

(b) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under 4-501.115, or

(c) Use a hot water sanitization immersion step as specified under 4-603.16(C).

(E) A two (2) compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

4-301.13 Drainboards.

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

4-301.14 Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

4-301.15 Clothes Washers and Dryers.

(A) Except as specified in (B) of this section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(B) If on-premises laundering is limited to wiping cloths intended to be used moist or wiping cloths are air-dried as specified under 4-901.12, a mechanical clothes washer and dryer need not be provided.

4-302 Utensils, Temperature Measuring Devices, and Testing Devices

4-302.11 Utensils, Consumer Self-Service.

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar. [Pf]

4-302.12 Food Temperature Measuring Devices.

(A) Food temperature measuring devices required for the immersion into food shall be provided and used to ensure the attainment and maintenance of food temperatures as specified under Chapter 3.[Pf]

(B) A temperature measuring device with a suitable small diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets. [Pf]

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.

(A) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures. [Pf]

(B) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature. [Pf]

4-302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in MG/L of sanitizing solutions shall be provided. [Pf]

4-303 Cleaning Agents and Sanitizers

4-303.11 Cleaning Agents and Sanitizers, Availability.

(A) Cleaning agents that are used to clean equipment and utensils as specified under section 4-6 shall be provided and available for use during all hours of operation.

(B) Except for those that are generated on-site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under section 4-7 shall be provided and available for use during all hours of operation.

4-4 LOCATION AND INSTALLATION

4-401 Location

4-401.11 Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.

(A) Except as specified in (B) of this section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

(5) Under sewer lines that are not shielded to intercept potential drips;

(6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(7) Under open stairwells; or

(8) Under other sources of contamination.

(B) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

4-402 Installation

4-402.11 Fixed Equipment, Spacing, or Sealing.

(A) Equipment that is fixed in place because it is not easily movable shall be installed so that it is:

(1) Spaced to allow access for cleaning along the sides, behind, and above the equipment;

(2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than one (1) millimeter or one thirty-second inch; or

(3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(B) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

(1) Sealed; or

(2) Elevated on legs as specified under 4-402.12(D).

4-402.12 Fixed Equipment, Elevation, or Sealing.

(A) Except as specified in (B) and (C) of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six (6) inches (15 centimeters), of clearance between the floor and the equipment.

(B) If no part of the floor under the floor-mounted equipment is more than six (6) inches (15 centimeters) from the point of cleaning access, the clearance space may be only four (4) inches (10 centimeters).

(C) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(D) Except as specified in (E) of this section, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four (4) inch (10 centimeters) clearance between the table and the equipment.

(E) The clearance space between the table and counter-mounted equipment may be:

(1) Three (3) inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than twenty (20) inches (50 centimeters) from the point of access for cleaning; or

(2) Two (2) inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than three (3) inches (7.5 centimeters) from the point of access for cleaning.

4-5 MAINTENANCE AND OPERATION

4-501 Equipment

4-501.11 Good Repair and Proper Adjustment.

(A) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under 4-1 and 4-2.

(B) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

4-501.12 Cutting Surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized or discarded if they are not capable of being resurfaced.

4-501.14 Warewashing Equipment, Cleaning Frequency.

A warewashing machine; the compartment(s) of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, raw foods, or laundering wiping cloths; and drainboards or other equipment as specified in 4-301.13 shall be cleaned:

(A) Before use;

(B) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(C) During use, at least once every twenty-four (24) hours.

4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

(A) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(B) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

4-501.16 Warewashing Sinks and Food Preparation Sinks, Use Limitation.

(A) A warewashing sink may not be used for handwashing as specified under 2-301.15.

(B) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 4-501.14 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under 4-7 before and after using the sink to wash produce or thaw food.

4-501.17 Warewashing Equipment, Cleaning Agents.

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 4-301.12(C) shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions. [Pf]

4-501.18 Warewashing Equipment, Clean Solutions.

The wash, rinse, and sanitize solutions shall be maintained clean.

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110 degrees F (43 degrees C) or the temperature as specified on the cleaning agent manufacturer's label instructions. [Pf]

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to sanitize shall not be less than:

(1) For a stationary rack, single temperature machine, 165 degrees F (74 degrees C);[Pf]

(2) For a stationary rack, dual temperature machine, 150 degrees F (66 degrees C);[Pf]

(3) For a single tank, conveyor, dual temperature machine, 160 degrees F (71 degrees C);[Pf] or

(4) For a multitank, conveyor, multitemperature machine, 150 degrees F (66 degrees C).[Pf]

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 120 degrees F (49 degrees C). [Pf]

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 171 degrees F (77 degrees C) or above. [P]

4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in (B) of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194 degrees F (90 degrees C) or less than:[Pf]

(1) For a stationary rack, single temperature machine, 165 degrees F (74 degrees C); [Pf] or

(2) For all other machines, 180 degrees F (82 degrees C). [Pf]

(B) The maximum temperature specified under (A) of this section does not apply to the high pressure and temperature systems with wand-type, hand-held spraying devices used for in-place cleaning and sanitizing of equipment such as meat saws.

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than five (5) pounds per square inch (35 kilopascals) or more than thirty (30) pounds per square inch (200 kilopascals).

4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization Temperature, pH, Concentration, and Hardness.

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified in 4-703.11(C) shall:

(A) Meet the criteria specified in 7-204.11;

(B) Be used in accordance with the EPA registered label use instructions; [P] and

(C) Be used as follows:

(1) A chlorine solution shall have a: [P]

(a) Minimum temperature of 75 degrees F (24 degrees C).

(b) Concentration between fifty (50) ppm and two hundred (200) ppm.

(2) An iodine solution shall have a:

(a) Minimum temperature of 68 degrees F (20 degrees C). [P]

(b) Concentration between twelve-point five (12.5) ppm and twenty-five (25) ppm. [P]

(3) A quaternary ammonium compound solution shall:

(a) Have a minimum temperature of 75 degrees F (24 degrees C); [P]

(b) Have a concentration as specified in 7-204.11 and as indicated by the manufacturer's use directions included in the labeling; [P] and

(c) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions. [P]

(D) If another solution of a chemical specified under (C) of this section is used, the permit holder shall demonstrate to the Department that the solution achieves sanitization and the use of the solution shall be approved; [P]

(E) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be approved by the EPA and applied in accordance with the EPA-registered label use instructions; [P]

(F) If a chemical sanitizer is generated by a device located on-site at the retail food establishment, it shall be used as specified in (A) through (D) of this section and shall be produced by a device that:

(1) Complies with regulations as specified in 2(q)(1) and 12 of the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)*; [P]

(2) Complies with 40 CFR 152.500, *Requirement for Devices* and 40 CFR 156.10, *Labeling Requirements*; [P]

(3) Displays the EPA device manufacturing facility registration number on the device, [Pf] and

(4) Is operated and maintained in accordance with manufacturer's instructions. [Pf]

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

4-501.116 Warewashing Equipment Determining Chemical Sanitizer Concentration.

Concentration of the sanitizing solution shall be accurately determined by using a test or other device.[Pf]

4-502 Utensils and Temperature and Pressure Measuring Devices

4-502.11 Good Repair and Calibration.

(A) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under 4-1 and 4-2 or shall be discarded.

(B) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. [Pf]

(C) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

4-502.12 Single-Service and Single-Use Articles, Required Use.

A retail food establishment without facilities specified under Section 4-6 and Section 4-7 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers. [P]

4-502.13 Single-Service and Single-Use Articles, Use Limitations.

(A) Single-service and single-use articles may not be reused.

(B) A bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one (1) inch protruding from the chilled dispenser head.

4-502.14 Shells, Use Limitations.

Mollusk and crustacean shells may not be used more than once as serving containers.

4-6 CLEANING OF EQUIPMENT AND UTENSILS

4-601 Objective

4-601.11 Equipment, Food Contact Surfaces, Nonfood Non-food Contact Surfaces, and Utensils.

(A) Equipment food contact surfaces and utensils shall be clean to sight and touch. [Pf]

(B) Food contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(C) Non-food contact surfaces shall be cleaned and kept free of an accumulation of dust, dirt, food residue, and other debris.

4-602 Frequency

4-602.11 Equipment Food Contact Surfaces, and Utensils.

(A) Equipment food contact surfaces and utensils shall be cleaned:

(1) Except as specified in (B) of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry; [P]

(2) Each time there is a change from working with raw foods to working with ready-to-eat foods;[P]

(3) Between uses with raw fruits and vegetables and with time/temperature control for safety food;[P]

(4) Before using or storing a food temperature measuring device; [P] and

(5) At any time during the operation when contamination may have occurred. [P]

(B) Subparagraph (A)(1) of this section does not apply if the food contact surface or utensil is in contact with a succession of different raw meats and poultry each requiring a higher cooking temperature as specified under 3-401.11 than the previous type food.

(C) Except as specified in (D) of this section, if used with time/temperature control for safety food, equipment, food-contact surfaces, and utensils shall be cleaned throughout the day at least every four (4) hours.[P]

(D) Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every four (4) hours if:

(1) In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;

(2) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(a) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
5.0C degrees (41F degrees) or less	24 hours
Greater than 5.0C degrees- 7.2C degrees (Greater than 41F degrees- 45F degrees)	20 hours
Greater than 7.2C degrees- 10.0C degrees (Greater than 45F degrees- 50F degrees)	16 hours
Greater than 10.0C degrees - 12.8C degrees (Greater than 50F degrees– 55F degrees)	10 hours

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the retail food establishment.

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines holding ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty-four (24) hours;

(4) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Chapter 3;

(5) Equipment is used for storage of packaged or unpackaged food, such as a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

(6) The cleaning schedule is based on consideration of:

(a) Characteristics of the equipment and its use,

(b) The type of food involved,

(c) The amount of food residue accumulation, and

(d) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(7) In-use utensils are intermittently stored in a container of water in which the water is maintained at 135 degrees F (57 degrees C) or more, and the utensils and container are cleaned at least every twenty-four (24) hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under 4-603.11, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:

(1) At any time when contamination may have occurred;

(2) At least every twenty-four (24) hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(4) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(a) At a frequency specified by the manufacturer or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4-602.12 Cooking and Baking Equipment.

(A) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four (24) hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned at a frequency specified by the manufacturer or at a frequency to preclude accumulation of soil or mold.

(B) The cavities and door seals of microwave ovens shall be cleaned at least every twenty-four (24) hours by using the manufacturer's recommended cleaning procedure.

4-602.13 Non-food-Contact Surfaces.

Non-food-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

4-603 Methods

4-603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not a time/temperature control for safety food.

(B) Cleaning equipment used in dry cleaning food contact surfaces shall not be used for any other purpose.

4-603.12 Pre-cleaning.

(A) Food debris on equipment and utensils shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

(B) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

4-603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes all surfaces of the items to the unobstructed spray from all cycles and

(B) Allows the items to drain.

4-603.14 Wet Cleaning.

(A) Equipment food contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(B) The washing procedures selected shall be based on the type and purpose of the equipment or utensil and on the type of soil to be removed.

4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment.

If washing in sink compartments or a warewashing machine is impractical, such as when the equipment is fixed in place or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 4-301.12(C) and in accordance with the following procedures:

(A) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

(B) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and

(C) Equipment and utensils shall be washed as specified in 4-603.14(A) to remove soils.

4-603.16 Rinsing Procedures.

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

(A) Use of a distinct, separate water rinse after washing and before sanitizing if using:

(1) A three (3) compartment sink;

(2) Alternative manual warewashing equipment equivalent to a three (3) compartment sink as specified in 4-301.12(C);

(3) A three (3)-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

(B) Use of a detergent-sanitizer as specified under 4-501.115 if using:

(1) Alternative warewashing equipment as specified in 4-301.12(C) that is approved for use with a detergent-sanitizer, or

(2) A warewashing system for CIP equipment;

(C) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two (2) compartment sink operation;

(D) If using a warewashing machine that does not recycle the sanitizing solution as specified under (E) of this section, or alternative manual warewashing equipment such as sprayers, use a nondistinct water rinse that is:

(1) Integrated in the application of the sanitizing solution and

(2) Wasted immediately after each application; or

(E) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use a nondistinct water rinse that is integrated in the application of the sanitizing solution.

4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

4-701 Objective

4-701.10 Food-Contact Surfaces and Utensils.

Equipment food-contact surfaces and utensils shall be sanitized.

4-702 Frequency

4-702.11 Before Use After Cleaning.

Utensils and food contact surfaces of equipment shall be sanitized before use after cleaning. [P]

4-703 Methods

4-703.11 Hot Water and Chemical.

After being cleaned, equipment food contact surfaces and utensils shall be sanitized in:

(A) Hot water manual operations by immersion for at least thirty (30) seconds and as specified in 4-501.111;[P]

(B) Hot water mechanical operations by being cycled through equipment that is set up as specified under 4-501.15, 4-501.112, and 4-501.113 and achieving a utensil surface temperature of 160 degrees F (71 degrees C) as measured by an irreversible registering temperature indicator; [P] or

(C) Chemical, manual, or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 4-501.114. Contact times shall be consistent with those on EPA-registered label use instructions by providing:

(1) Except as specified under (C)(2) of this section, a contact time of at least ten (10) seconds for a chlorine solution specified under 4-501.114(C), [P]

(2) A contact time of at least seven (7) seconds for a chlorine solution of 50 MG/L that has a pH of ten (10.0) or less and a temperature of at least 100 degrees F (38 degrees C) or a pH of eight (8.0) or less and a temperature of at least 75 degrees F (24 degrees C), [P]

(3) A contact time of at least thirty (30) seconds for other chemical sanitizing solutions, [P] or

(4) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 1-201.10(B).[P]

4-8 LAUNDERING

4-801 Objective

4-801.11 Linens.

Clean linens shall be free from food residues and other soiling matter.

4-802 Frequency

4-802.11 Specifications.

(A) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in 3-304.15(D) shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork, or poultry.

(C) Linens that are used as specified in 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

4-803 Methods

4-803.11 Storage of Soiled Linens.

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

4-803.12 Mechanical Washing.

(A) Except as specified in (B) of this section, linens that come in direct contact with food shall be mechanically laundered.

(B) In retail food establishments in which only wiping cloths are laundered as specified in 4-301.15 (B), the wiping cloths may be laundered in a mechanical washer, a sink designated only for wiping cloths, or a warewashing or food preparation sink that is cleaned as specified in 4-501.14.

4-803.13 Use of Laundry Facilities.

(A) Except as specified in (B) of this section, laundry facilities located on the premises of a retail food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

(B) Separate laundry facilities located on the premises for the purpose of general laundering such as institutions providing boarding and lodging may also be used for laundering retail food establishment linens.

4-9 PROTECTION OF CLEAN ITEMS

4-901 Drying

4-901.11 Equipment and Utensils, Air-Drying Required.

After cleaning and sanitizing, equipment and utensils:

(A) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940, *Tolerance Exemptions for Active and Inert Ingredients for use in Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions)* before contact with food; and

(B) May not be cloth dried, except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

4-901.12 Wiping Cloths, Air-Drying Locations.

Wiping cloths laundered in a retail food establishment that does not have a mechanical clothes dryer as specified in 4-301.15(B) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 4-501.114.

4-902 Lubricating and Reassembling

4-902.11 Food-Contact Surfaces.

Lubricants as specified under 7-205.11 shall be applied to food contact surfaces that require lubrication in a manner that does not contaminate food contact surfaces.

4-902.12 Equipment.

Equipment shall be reassembled so that food contact surfaces are not contaminated.

4-903 Storing

4-903.11 Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.

(A) Except as specified in (D) of this section, cleaned equipment and utensils, laundered linens and single-service and single-use articles shall be stored:

(1) In a clean, dry location; and

(2) Where they are not exposed to splash, dust, or other contamination; and

(3) At least six (6) inches (15 centimeters) above the floor.

(B) Clean equipment and utensils shall be stored as specified in (A) of this section and shall be stored:

(1) In a self-draining position that allows for air drying; and

(2) Covered or inverted.

(C) Single-service and single-use articles shall be stored as specified under (A) of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(D) Items that are kept in closed packages shall be stored less than six (6) inches (15 centimeters) above the floor on dollies, pallets, racks, and skids that are designed as specified under 4-204.122.

4-903.12 Prohibitions.

(A) Except as specified in (B) of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles shall not be stored:

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

(5) Under sewer lines that are not shielded to intercept potential drips;

(6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(7) Under open stairwells; or

(8) Under other sources of contamination.

(B) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

4-904 Preventing Contamination

4-904.11 Kitchenware and Tableware.

(A) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food and lip-contact surfaces is prevented.

(B) Knives, forks, and spoons that are not pre-wrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(C) Except as specified in (B) of this section, single-service articles that are intended for food or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

4-904.12 Soiled and Clean Tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

4-904.13 Preset Tableware.

(A) Except as specified in (B) of this section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) Preset tableware may be exposed if:

(1) Unused settings are removed when a consumer is seated; or

(2) Settings not removed when a consumer is seated are cleaned and sanitized before further use.

4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing.

After being cleaned and sanitized, equipment and utensils shall not be rinsed before air-drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under 4-204 and 4-501 and

(B) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

Chapter 5 Water, Plumbing, and Waste

5-1 WATER

5-101 Source

5-101.11 Approved System.

Drinking water shall be obtained from an approved source that is:

(A) An existing public water system [P] (e.g., municipality);

(B) A new public water system (including a well) constructed for the purpose of serving the retail food establishment that is constructed, maintained, and operated according to R.61-58, *State Primary Drinking Water Regulation*; [P]

(1) The owner shall provide the Department with a copy of the public water system *Operating Permit* or *Public Water Supply Construction Permit and Approval to Place into Operation* prior to the issuance of a permit to operate the retail food establishment;

(2) Upon the date of written notification from the Department to the owner/retail food establishment that the water supply to the retail food establishment does not meet acceptable standards for drinking water consumption, the retail food establishment shall immediately cease its food operation; [P]

(C) An approved water transport vehicle filled from a source that complies with (A) or (B) above;[P]

(D) An approved water container filled from a source that complies with (A) or (B) above; [P] or

(E) An on-premises water storage tank filled from a source that complies with (A) or (B) above.[P]

5-101.12 System Flushing and Disinfection.

A drinking water system shall be flushed and sampled for the presence of bacteria before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, or a water main break, that may introduce contaminants to the system. [P]

5-101.13 Bottled Drinking Water.

Bottled drinking water used or sold in a retail food establishment shall be obtained from approved sources in accordance with 21 CFR 129, *Processing and Bottling of Bottled Drinking Water.* [P]

5-102 Quality

5-102.11 Standards.

Water from a public water system shall meet 40 CFR 141, *National Primary Drinking Water Regulations*, and R.61-58, *State Primary Drinking Water Regulations*. [P]

5-102.12 Nondrinking Water.

(A) A nondrinking water supply shall be used only if its use is approved. [P]

(B) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection. [P]

5-102.13 Sampling.

Except when used as specified under 5-102.12, water from a public water system shall be sampled and tested at least annually and as required by R.61-58, *State Primary Drinking Water Regulations.* [Pf]

5-102.14 Sampling Report.

The most recent sample report for the public water system shall be maintained as specified by R.61-58, *State Primary Drinking Water Regulations*.

5-103 Quantity and Availability

5-103.11 Capacity.

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the retail food establishment. [Pf]

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the retail food establishment. [Pf]

5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under 5-104.12(A) and (B) in response to a temporary interruption of a water supply need not be under pressure. [Pf]

5-104 Distribution, Delivery, and Retention

5-104.11 System.

Water shall be received from the source through the use of:

(A) An approved public water main; [Pf] or

(B) One or more of the following that shall be constructed, maintained, and operated according to law: [Pf]

(1) Water pumps, pipes, hoses, connections, and other appurtenances; [Pf]

(2) Water transport vehicles; [Pf] or

(3) Water containers. [Pf]

5-104.12 Alternative Water Supply.

Water meeting the requirements specified under 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a retail food establishment with a temporary interruption of its water supply through:

(A) A supply of containers of commercially bottled drinking water; [Pf]

(B) One or more closed portable water containers; [Pf]

(C) An enclosed vehicular water tank; [Pf]

(D) An on-premises water storage tank; [Pf] or

(E) Piping, tubing, or hoses connected to an adjacent approved source. [Pf]

5-2 PLUMBING SYSTEM

5-201 Materials

5-201.11 Approved

(A) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the law. [P]

(B) A water filter shall be made of safe materials. [P]

5-202 Design, Construction, and Installation

5-202.11 Approved System and Cleanable Fixtures.

(A) A plumbing system shall be designed, constructed, and installed according to law. [P]

(B) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.

5-202.12 Handwashing Sink, Installation.

(A) A handwashing sink shall be equipped to provide water at a temperature of at least 100 degrees F (38 degrees C) through a mixing valve or combination faucet. [Pf]

(B) A steam mixing valve may not be used at a handwashing sink.

(C) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

(D) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

5-202.13 Backflow Prevention, Air Gap.

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one (1) inch (25 mm).[P]

5-202.14 Backflow Prevention Device, Design Standard.

A backflow prevention device installed on the internal water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device. [P]

5-202.15 Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

5-203 Numbers and Capacities

5-203.11 Handwashing Sinks.

(A) Except as specified in (B) of this section, at least one (1) handwashing sink necessary for their convenient use by employees in areas specified under 5-204.11 shall be provided. Additional handwashing sinks may be required based on the size and operational flow of the establishment. There shall not be fewer than the number of handwashing sinks required by law.

(B) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a retail food establishment that has a least one (1) handwashing sink.

5-203.12 Toilets and Urinals.

At least one (1) toilet, and not fewer than the toilets required by law, shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

5-203.13 Service Sink.

(A) At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

5-203.14 Backflow Prevention Device, When Required.

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the retail food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(A) Providing an air gap as specified under 5-202.13; [P] or

(B) Installing an approved backflow prevention device as specified under 5-202.14. [P]

5-203.15 Backflow Prevention Device, Carbonator.

(A) If not provided with an approved air gap as specified under 5-202.13, a dual check valve with an intermediate vent preceded by a screen of not less than one hundred (100) mesh to one (1) inch (100 mesh to

25.4 mm) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line. [P]

(B) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified in (A) of this section.

5-204 Location and Placement

5-204.11 Handwashing Sinks.

A handwashing sink shall be located:

(A) To allow convenient use by employees, in food preparation, food dispensing, and warewashing areas; [Pf] and

(B) In, or immediately adjacent to, toilet rooms. [Pf]

5-204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

5-204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

5-205 Operation and Maintenance

5-205.11 Using a Handwashing Sink.

(A) A handwashing sink shall be maintained so that it is accessible at all times for employee use. [Pf]

(B) A handwashing sink shall not be used for purposes other than handwashing. [Pf]

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.[Pf]

5-205.12 Prohibiting a Cross Connection.

(A) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality. [P]

(B) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water. [Pf]

5-205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow prevention device shall be scheduled for inspection and service in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge. [Pf]

5-205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; [P] and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified in (B) of this section, whichever is more stringent. [P]

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts; [P]

(2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; [P]

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; [P] and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/l hypochlorite solution. [P]

5.205.15 System Maintained in Good Repair.

A plumbing system shall be:

(A) Repaired according to law[P] and

(B) Maintained in good repair.

5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

5-301 Materials

5-301.11 Approved.

Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall comply with NSF 372 and shall have a weighted average lead content of 0.25 percent or less and meet either ANSI/NSF Standard 59 or 61.[P]

5-302 Design and Construction

5-302.11 Enclosed System, Sloped to Drain.

A mobile water tank shall be:

(A) Enclosed from the filling inlet to the discharge outlet and

(B) Sloped to an outlet that allows complete drainage of the tank.

5-302.12 Inspection and Cleaning Port, Protected and Secured.

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

(A) Flanged upward at least one-half inch (13 mm) and

(B) Equipped with a port cover assembly that is:

(1) Provided with a gasket and a device for securing the cover in place and

(2) Flanged to overlap the opening and sloped to drain.

5-302.13 "V" Type Threads, Use Limitation.

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

5-302.14 Tank Vent, Protected.

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

(A) Sixteen (16) mesh to one (1) inch (25.4 mm) screen or equivalent when the vent is in a protected area or

(B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

5-302.15 Inlet and Outlet, Sloped to Drain.

(A) A water tank and its inlet and outlet shall be sloped to drain.

(B) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

5-302.16 Hose, Construction, and Identification.

A hose used for conveying drinking water from a water tank shall be:

(A) Safe; [P]

(B) Durable, corrosion resistant, and nonabsorbent;

(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, or decomposition;

(D) Finished with a smooth interior surface; and

(E) Clearly and durably identified as to its use if not permanently attached.

5-303 Numbers and Capacities

5-303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system. [P]

5-303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

5-303.13 Mobile Food Establishment Tank Inlets.

A mobile food establishment water tank inlet shall be:

(A) Nineteen-point one (19.1) mm (three-fourths inch) in inner diameter or less and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

5-304 Operation and Maintenance

5-304.11 System Flushing and Sanitization.

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of non-use. [P]

5-304.12 Using a Pump and Hoses, Backflow Prevention.

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in 5-303.12.

5-304.14 Tank, Pump, and Hoses Dedication.

(A) Except as specified in (B) of this section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. [P]

(B) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

5-401 Mobile Holding Tank

5-401.11 Capacity and Drainage.

A sewage holding tank in a mobile food establishment shall be:

(A) Sized fifteen (15) percent larger in capacity than the water supply tank; and

(B) Sloped to a drain that is one (1) inch (25 mm) in inner diameter or greater and equipped with a shut-off valve.

5-402 Retention, Drainage, and Delivery

5-402.10 Establishment Drainage System.

Retail food establishment drainage systems, including grease traps that convey sewage, shall be designed and installed as specified under 5-202.11(A).

5-402.11 Backflow Prevention.

(A) Except as specified in (B), (C), and (D) of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed. P

(B) Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by law, a warewashing or culinary sink may have a direct connection.

5-402.12 Grease Traps and Grease Interceptors.

If used, a grease trap or grease interceptor shall be located to be easily accessible for cleaning.

(A) Grease Traps.

(1) When required by the sewer purveyor, grease traps shall be located outside to be easily accessible for cleaning and servicing, except when the building is the property line; a grease trap may be installed inside a retail food establishment, provided the grease trap complies as specified in (2), (3), and (4) of this section.

(2) Grease traps shall not be installed in food preparation areas, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(3) Grease trap servicing hoses and pumps shall not run through food preparation areas, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(4) Facilities with existing grease traps that are located in food preparation areas, food storage areas, equipment and utensil washing areas, or food dispensing areas, prior to the effective date of this regulation, which require inspection, servicing, or maintenance shall:

(a) Temporarily close for business and shall cease all food preparation and utensils washing activities during inspection, servicing, or maintenance of the grease trap; and

(b) Immediately after inspection, servicing, or maintenance, clean and sanitize the grease trap area and adjacent surfaces before re-opening for business and resuming food service activities.

(B) Grease Interceptors.

(1) When required by the sewer purveyor, grease interceptors may be installed in food preparation, food storage, equipment, and utensil washing areas.

(2) Grease interceptors on the floor shall have a minimum unobstructed clearance of twenty-four (24) inches above the interceptors to allow access for servicing and maintenance and shall have a minimum of six (6) inch spacing to walls or adjacent surfaces to allow access for cleaning around the grease interceptor.

(3) Grease interceptors fully recessed or recessed with an extension to floor level shall not have equipment placed on top of the unit and shall have a minimum unobstructed clearance of twenty-four (24) inches above the grease interceptor, except for floor–mounted equipment that is mobile or portable.

(4) Grease interceptors shall be manually serviced. Grease servicing hoses and pumps are prohibited in food preparation areas, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(5) Immediately following an inspection, servicing, or maintenance of a grease interceptor located inside a retail food establishment, the grease interceptor and the surrounding area shall be cleaned and sanitized.

5-402.13 Conveying Sewage.

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law. [P]

5-402.14 Removing Mobile Food Establishment Wastes.

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created or that sewage is not discharged to the environment. [Pf]

5-402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

5-403 Disposal Facility

5-403.11 Approved Sewage Disposal System.

Sewage shall be disposed through an approved facility that is:

(A) A public sewage treatment plant[P] or

(B) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.[P]

5-403.12 Other Liquid Wastes and Rainwater.

Condensate drainage and other nonsewage liquids and rainwater shall be drained from the point of discharge to disposal according to law.

5-5 REFUSE, RECYCLABLES, AND RETURNABLES

5-501 Facilities on the Premises

5-501.10 Indoor Storage Area.

If located within the retail food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 6-101.11, 6-201.11 through 6-201.18, 6-202.15, and 6-202.16.

5-501.11 Outdoor Storage Surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

5-501.12 Outdoor Enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

5-501.13 Receptacles.

(A) Except as specified in (B) of this section, receptacles and waste handling units for refuse, recyclables, and returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent-resistant, leakproof, and nonabsorbent.

(B) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the retail food establishment, or within closed outside receptacles.

5-501.15 Outside Receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the retail food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

(B) Receptacles and waste handling units for refuse and recyclables, such as an on-site compactor, shall be installed so that accumulation of debris, insect and rodent attraction, and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

5-501.16 Storage Areas, Rooms, and Receptacles, Capacity and Availability.

(A) An inside storage room and area, outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

(B) A receptacle shall be provided in each area of the retail food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

(C) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

5-501.17 Toilet Room Receptacle, Covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

5-501.18 Cleaning Implements and Supplies.

(A) Except as specified in (B) of this section, suitable cleaning implements and supplies, such as high pressure pumps, hot water, steam, and detergent, shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(B) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

5-501.19 Storage Areas, Redeeming Machines, Receptacles, and Waste Handling Units, Location.

(A) An area designated for refuse, recyclables, returnables, and, except as specified in (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

(B) A redeeming machine may be located in the packaged food storage area or consumer area of a retail food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

(C) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

5-501.110 Storing Refuse, Recyclables, and Returnables.

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

5-501.111 Areas, Enclosures, and Receptacles, Good Repair.

Storage areas, receptacles, and enclosures for refuse, recyclables, or returnables shall be maintained in good repair.

5-501.112 Outside Storage Prohibitions.

(A) Except as specified in (B) of this section, refuse receptacles not meeting the requirements specified under 5-501.13(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

(B) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

5-501.113 Covering Receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

(A) Inside the retail food establishment if the receptacles and units:

(1) Contain food residue and are not in continuous use or

(2) After they are filled and

(B) With tight-fitting lids or doors if kept outside the retail food establishment.

5-501.114 Using Drain Plugs.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

5-501.115 Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under 6-501.114, and clean.

5-501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under 5-402.13.

(B) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

5-502 Removal

5-502.11 Frequency.

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

5-502.12 Receptacles or Vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

(A) Portable receptacles that are constructed and maintained according to law or

(B) A transport vehicle that is constructed, maintained, and operated according to law.

5-503 Facilities for Disposal and Recycling

5-503.11 Community or Individual Facility.

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility, such as a landfill or incinerator, which is sized, constructed, maintained, and operated according to law.

Chapter 6 Physical Facilities

6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

6-101 Indoor Areas

6-101.11 Surface Characteristics.

Materials for indoor floor, wall, and ceilings surfaces under conditions of normal use shall be:

(A) Smooth, durable, and easily cleanable for areas where retail food establishment operations are conducted;

(B) Closely woven and easily cleanable carpet for carpeted areas; and

(C) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

6-102 OUTDOOR AREAS

6-102.11 Surface Characteristics.

(A) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel, or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.

(C) Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 5-501.11 and 5-501.12.

6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

6-201 Cleanability

6-201.11 Floors, Walls, and Ceilings.

Except as specified under 6-201.14 and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

6-201.12 Floors, Walls, and Ceilings, Utility Lines.

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

6-201.13 Floor and Wall Junctures, Coved and Enclosed or Sealed.

(A) In retail food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than one (1) thirty-second inch (1 mm).

(B) The floors in retail food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain. The floor and wall junctures shall be coved and sealed.

6-201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under (A) of this section, it shall be:

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

6-201.15 Floor Covering, Mats and Duckboards.

Mats and duckboards shall be designed to be removable and easily cleanable.

6-201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(B) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

6-201.17 Wall and Ceiling, Attachments.

(A) Except as specified in (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

(B) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

6-201.18 Walls and Ceiling, Studs, Joists, and Rafters.

Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

6-202 Functionality

6-202.11 Light Bulbs, Protective Shielding.

(A) Except as specified in (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens, or unwrapped single-service and single-use articles.

(B) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

(1) The integrity of the packages cannot be affected by broken glass falling onto them and

(2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

6-202.12 Heating, Ventilating, Air-conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

6-202.13 Insect Control Devices, Design, and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

(1) The devices are not located over a food preparation area and

(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

6-202.14 Toilet Rooms, Enclosed.

Except where a toilet room is located outside a retail food establishment and does not open directly into the retail food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door or, for a public access restroom, an alcove opening as approved by local building codes.

6-202.15 Outer Openings Protected.

(A) Except as specified in (B), (C), (E), and under (D) of this section, outer openings of a retail food establishment shall be protected against the entry of insects and rodents by:

(1) Filling or closing the holes and other gaps along floors, walls, and ceiling;

(2) Closed tight-fitting windows; and

(3) Solid, self-closing, tight-fitting doors.

(B) Paragraph (A) of this section does not apply if a retail food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(C) Exterior doors used as exits need not be self-closing if they are:

(1) Solid and tight-fitting;

(2) Designated for use, only when an emergency exists, by the fire protection authority that has jurisdiction over the retail food establishment; and

(3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(D) Except as specified in (B) and (E) of this section, if the windows or doors of a retail food establishment or of a larger structure within which a retail food establishment is located, are kept open for ventilation or other purposes the openings shall be protected against the entry of insects and rodents by:

(1) Sixteen (16) mesh to one (1) inch (16 mesh to 25.4 mm) screens;

(2) Properly designed and installed air curtains to control flying insects; or

(3) Other effective means.

(E) Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting conditions.

6-202.16 Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs shall effectively protect the retail food establishment from the weather and the entry of insects, rodents, and other animals.

6-202.18 Outdoor Servicing Areas, Overhead Protection.

Except for areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

6-202.111 Private Residence and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting retail food establishment operations. [P]

6-202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters located in the premises of a retail food establishment, such as those provided for lodging registration clerks or resident managers, shall be separated from rooms and areas used for retail food establishment operations by complete partitioning and solid self-closing doors.

6-3 NUMBERS AND CAPACITIES

6-301 Handwashing Sinks

6-301.10 Minimum Number.

Handwashing sinks shall be provided as specified under 5-203.11.

6-301.11 Handwashing Cleanser, Availability.

Each handwashing sink or group of two (2) adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap. [Pf]

6-301.12 Hand Drying Provision.

Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

(A) Individual disposable towels; [Pf] or

(B) A continuous towel system that supplies the user with a clean towel; [Pf] or

(C) A heated-air hand drying device; [Pf] or

(D) A hand-drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. [Pf]

6-301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for food preparation or utensil washing, a service sink, or curbed cleaning facility used for the disposal of mop water or similar wastes may not be provided with the handwashing aids and devices required for a handwashing sink as specified under 5-501.16(C), 6-301.11 and 6-301.12.

6-301.14 Handwashing Signage.

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.

6-301.20 Disposable Towels, Waste Receptacle.

A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified under 5-501.16(C).

6-302 Toilets and Urinals

6-302.10 Minimum Number.

Toilets and urinals shall be provided as specified under 5-203.12.

6-302.11 Toilet Tissue, Availability.

A supply of toilet tissue shall be available at each toilet. [Pf]

6-303 Lighting

6-303.11 Intensity.

The light intensity shall be:

(A) At least ten (10) foot-candles (108 lux) at a distance of thirty (30) inches (75cm) above the floor, in walk-in refrigeration units and dry storage areas, and in other areas and rooms during periods of cleaning;

(B) At least twenty (20) foot-candles (215 lux):

(1) At a surface where food is provided for customer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

(2) Inside equipment such as reach-in and under-counter refrigerators; and

(3) At a distance of thirty (30) inches (75 cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

(C) At least fifty (50) foot-candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, and saws where employee safety is a factor.

6-304 Ventilation

6-304.11 Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

6-305 Dressings Areas and Lockers

6-305.11 Designation.

(A) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

6-306 Service Sinks

6-306.10 Availability.

A service sink or curbed cleaning facility shall be provided as specified in 5-203.13(A).

6-4 LOCATION AND PLACEMENT

6-401 Handwashing Sinks

6-401.10 Conveniently Located.

Handwashing sinks shall be conveniently located as specified in 5-204.11.

6-402 Toilet Rooms

6-402.11 Convenience and Accessibility.

Toilet rooms shall be conveniently located and shall be accessible to employees during all hours of operation.

6-403 Employee Accommodations

6-403.11 Designated Areas.

(A) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service or single-use articles can not occur.

6-404 Distressed Merchandise

6-404.11 Segregation and Location.

Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles. [Pf]

6-405 Refuse, Recyclables, and Returnables

6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.

Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 5-501.19.

6-5 MAINTENANCE AND OPERATION

6-501 Premises, Structures, Attachments, and Fixtures - Methods

6-501.11 Repairing.

Physical facilities shall be maintained in good repair.

6-501.12 Cleaning, Frequency and Restrictions.

(A) Physical facilities shall be cleaned as often as necessary to keep them clean.

(B) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed, such as after closing.

6-501.13 Cleaning Floors, Dustless Methods.

(A) Except as specified in (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(1) Without the use of dust-arresting compounds and

(2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health hazard, nuisance or unlawful discharge.

6-501.15 Cleaning Maintenance Tools, Preventing Contamination.

Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes. [Pf]

6-501.16 Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

6-501.17 Absorbent Material on Floors, Use Limitation.

Except as specified in 6-501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

6-501.18 Cleaning of Plumbing Fixtures.

Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

6-501.19 Closing Toilet Room Doors.

Except during cleaning and maintenance operations, toilet room doors as specified under 6-202.14 shall be kept closed.

6-501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

6-501.111 Controlling Pests.

The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

(A) Routinely inspecting incoming shipments of food and supplies;

(B) Routinely inspecting the premises for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 7-202.12, 7-206.12, and 7-206.13; [Pf] and

(D) Eliminating harborage conditions.

6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

6-501.113 Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

6-501.114 Maintaining Premises, Unnecessary Items, and Litter.

The premises shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

(B) Litter.

6-501.115 Prohibiting Animals.

(A) Except as specified in (B) and (C) of this section, live animals may not be allowed on the premises of a retail food establishment. [Pf]

(B) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles can not result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) Patrol dogs accompanying police or security officers in offices, dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals as defined by the *Americans with Disabilities Act* that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

(b) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(c) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result.

Chapter 7 Poisonous or Toxic Materials

7-1 LABELING AND IDENTIFICATION

7-101 Original Containers

7-101.11 Identifying Information, Prominence.

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.[Pf]

7-102 Working Containers

7-102.11 Common Name.

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. [Pf]

7-2 OPERATIONAL SUPPLIES AND APPLICATION

7-201 Storage

7-201.11 Separation.

Poisonous or toxic materials shall be stored so that they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning; [P] and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service and single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles [P]

7-202 Presence and Use

7-202.11 Restriction.

(A) Only those poisonous or toxic materials that are required for operation and maintenance of the retail food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a retail food establishment. [Pf]

(B) This requirement does not apply to packaged poisonous or toxic materials and medicines that are offered for retail sale.

7-202.12 Conditions of Use.

Poisonous or toxic materials shall be:

(A) Used according to:

(1) Law and this regulation, and

(2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a retail food establishment, and [P]

(3) The conditions of certification, if certification is required, for use of the pest control materials, [P] and

(4) Additional conditions that may be established by the Department; and

(B) Applied so that:

(1) A hazard to employees or other persons is not constituted, [P] and

(2) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented by and for a restricted use pesticide; this is achieved by: [P]

(a) Removing the items, [P]

(b) Covering the items with impermeable covers, [P] or

(c) Taking other appropriate preventive actions, [P] and

(d) Cleaning and sanitizing equipment and utensils after the application. [P]

(C) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC 136, *Definitions*, *(e)Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act*, or a person under the direct supervision of a certified applicator. [Pf]

7-203 Container Prohibitions

7-203.11 Chemical, Poisonous, or Toxic Material Containers.

A container previously used to store chemicals, including poisonous or toxic materials, may not be used to store, transport, or dispense food. [P]

7-204 Chemicals

7-204.11 Sanitizers, Criteria.

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

(A) Meet the requirements specified in 40 CFR 180.940, *Tolerance Exemptions for Active and Inert Ingredients for use in Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions*), [P] or

(B) Meet the requirements as specified in 40 CFR 180.2020, *Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-Food Determinations.* [P]

7-204.12 Chemicals for Washing, Treatment, Storage, and Processing Fruits and Vegetables.

Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables shall:

(A) Be an approved food additive listed for this intended use in 21 CFR 173, [P]or

(B) Be generally recognized as safe (GRAS) for this intended use, [P] or

(C) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), [P] and

(D) Meet the requirements in 40 CFR 156 *Labeling Requirements for Pesticide and Devices*. [P]

7-204.13 Boiler Water Additives, Criteria.

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310, *Boiler Water Additives*. [P]

7-204.14 Drying Agents Criteria.

Drying agents used in conjunction with sanitization shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in food as specified in 21 CFR 182, *Substances Generally Recognized as Safe*, or 21 CFR 184, *Direct Food Substances Affirmed as Generally Recognized as Safe*; [P]

(2) Generally recognized as safe for the intended use as specified in 21 CFR 186, *Indirect Food Substances Affirmed as Generally Recognized as Safe*; [P]

(3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR 170.30, *Eligibility for Classification as Generally Recognized as Safe (GRAS*);[P]

(4) Subject of an effective *Food Contact Notification* as described in the *Federal Food Drug and Cosmetic Act (FFDCA)* Section 409(h),[P]

(5) Approved for use as a drying agent under a prior sanction as described in the *Federal Food Drug and Cosmetic Act (FFDCA)* 201(s)(4)), [P]

(6) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174 through 178,[P] or

(7) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39, *Threshold of regulation for substances used in food-contact articles*; [P] and

(B) When sanitization is with chemicals, the approval required under (A)(5) or (A)(7) of this section or the regulation as an indirect food additive required under (A)(6) of this section shall be specifically for use with chemical sanitizing solutions. [P]

7-205 Lubricants

7-205.11 Incidental Food Contact, Criteria.

Lubricants shall meet the requirements specified in 21 CFR 178.3570, *Lubricants with Incidental Food Contact*, if they are used on food contact surfaces, on bearings and gears located on or within food contact

surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food contact surfaces. [P]

7-206 Pesticides

7-206.11 Restricted Use Pesticides, Criteria.

Restricted use pesticides specified in 7-202.12(C) shall meet the requirements specified in 40 CFR 152, Subpart I, *Classification of Pesticides*. [P]

7-206.12 Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station. [P]

7-206.13 Tracking Powders, Pest Control, and Monitoring.

(A) Except as specified in (B) of this section, a tracking powder may not be used in retail food establishments. [P]

(B) If used, a nontoxic tracking powder, such as talcum or flour, may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

7-207 Medicines

7-207.11 Restriction and Storage.

(A) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a retail food establishment. [Pf]

(B) Medicines that are in a retail food establishment for the employees' use shall be labeled as specified under 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.[P]

7-207.12 Refrigerated Medicines, Storage.

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

(A) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; [P] and

(B) Located so they are inaccessible to children. [P]

7-208 First Aid Supplies

7-208.11 Storage.

First aid supplies that are in a retail food establishment for the employees' use shall be:

(A) Labeled as specified under 7-101.11 [Pf] and

(B) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. [P]

7-209 Other Personal Care Items

7-209.11 Storage.

Except as specified under 7-207.12 and 7-208.11, employees shall store their personal care items in facilities as specified under 6-305.11(B).

7-3 STOCK AND RETAIL SALE

7-301 Storage and Display

7-301.11 Separation.

Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning [P] and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. [P]

Chapter 8 Compliance and Enforcement

8-1 REGULATION APPLICABILITY

8-101 Use for Intended Purpose

8-101.10 Public Health Protection.

Retail food establishments in operation prior to the effective date of this regulation and in compliance with the previous regulation, but which do not fully comply with all the construction, equipment, and physical requirements of this regulation, shall be deemed acceptable provided the facilities and equipment:

(A) Are capable of being maintained in a sanitary condition;

(B) Are not a public health hazard or nuisance; and

(C) Are replaced in the normal course of operation with equipment and facilities that meet the requirements of this regulation.

(D) This section shall not apply to equipment installed or construction begun after the effective date of this regulation.

8-102 Additional Requirements

8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements that are authorized by law in addition to the requirements contained in this regulation.

(B) The Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the Department file for the retail food establishment.

8-103 Variances

8-103.10 Modifications and Waivers.

(A) The Department may grant a variance by modifying or waiving the requirements of this regulation if, in the opinion of the Department, a health hazard or nuisance will not result from the variance. If a variance is granted, the Department shall retain the information specified under 8-103.11 in its records for the retail food establishment.

(B) When a retail food establishment desires to use a construction procedure inconsistent with the regulation or use materials and/or equipment other than specified in this regulation, a variance may be requested from the Department. Such a request must:

(1) Be submitted in writing,

(2) Include a description of the material(s), equipment, and/or construction procedure(s) proposed, and

(3) Identify the material, equipment and/or procedure required by the regulation, and include proof of equivalency.

(C) The Department shall only consider a complete request for approval of a variance. The Department's decision on such a variance will be final.

8-103.11 Documentation of Proposed Variance and Justification.

Before a variance from a requirement of this regulation is approved, the information provided by the retail food establishment requesting the variance and retained in the Department's file shall include:

(A) A statement of the proposed variance of this regulation requirement citing relevant regulation section(s);[P]

(B) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant regulation sections will be alternatively addressed by the proposal; [P] and

(C) A HACCP plan if required as specified under 8-201.13(A) that includes the information specified under 8-201.14 as it is relevant to the variance requested. [Pf]

8-103.12 Conformance with Approved Procedures.

If the Department grants a variance as specified in 8-103.10 or a HACCP plan is otherwise required as specified under 8-201.13, the permit holder shall:

(A) Comply with the HACCP plans and procedures that are submitted as specified under 8-201.14 and approved as a basis for the modification or waiver; [P] and

(B) Maintain and provide to the Department, upon request, records specified under 8-201.14(D) and (E) that demonstrate that the following are routinely employed:

(1) Procedures for monitoring the critical control points, [Pf]

(2) Monitoring of the critical control points, [Pf]

(3) Verification of the effectiveness of the operation or process, [Pf] and

(4) Necessary corrective actions if there is failure at a critical control point. Pf

8-2 PLAN SUBMISSION AND APPROVAL

8-201 Operating Plans

8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the Department for approval a properly prepared HACCP plan as specified under 8-201.14 and the relevant provisions of this regulation if:

(1) Submission of a HACCP plan is required by a section of this regulation;

(2) A variance is required as specified under 3-401.11(D)(4) and 3-502.11;

(3) The Department determines that a food preparation or processing method requires a variance based on a plan submittal, an inspectional finding, or a variance request.

(B) Before engaging in reduced oxygen packaging without a variance as specified under 3-502.12, a permit applicant or permit holder shall submit a properly prepared HACCP plan to the Department.

8-201.14 Contents of a HACCP Plan.

For a retail food establishment that is required under 8-201.13 to have a HACCP plan, the permit applicant or permit holder shall submit to the Department a properly prepared HACCP plan that includes:

(A) The name of the permit applicant or permit holder, the retail food establishment address, and contact information;

(B) A categorization of the types of time/temperature control for safety foods that are to be controlled under the HACCP plan; Pf

(C) A flow diagram or chart for each specific food or category type that identifies:

(1) Each step in the process; Pf

(2) The hazards and controls for each step in the flow diagram or chart; Pf

(3) The steps that are critical control points; Pf

(4) Ingredients, materials, and equipment used in the preparation of that food;Pf and

(5) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved. Pf

(D) A critical control points summary for each specific food or category type that clearly identifies:

(1) Each critical control point, Pf

(2) The critical limits for each critical control point, Pf

(3) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge, [Pf]

(4) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring each critical control point, [Pf]

(5) Action to be taken by the designated food employee or person in charge if the critical limits for each critical control point are not met, [Pf] and

(6) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; [Pf] and

(E) Supporting documents including:

(1) Food employee and supervisory training plan that addresses the food safety issues of concern;[Pf]

(2) Copies of blank record forms that are necessary to implement the HACCP plan; [Pf] and

(3) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal; [Pf] and

(F) Any other information required by the Department.

8-203 Construction Inspection and Approval

8-203.10 Preoperational Inspections.

The Department shall conduct preoperational inspection(s) to verify that the retail food establishment is constructed and equipped in accordance with this regulation. The permit holder or representative of the permit holder must request the preoperational inspection fourteen (14) days prior to an inspection to issue a permit.

8-3 PERMIT TO OPERATE

8-301 Requirement

8-301.11 Prerequisite for Operation.

(A) No person shall operate a retail food establishment without a valid permit to operate issued by the Department. [Pf]

(B) Only a person who complies with the requirements of this regulation shall be entitled to receive and retain such a permit.

(C) The permit shall be kept in the retail food establishment and shall be accessible at all times.

8-301.12 Retail Food Establishment Permits Not Required.

(A) The following establishments shall not be required to have a permit from the Department:

(1) Churches or charitable organizations where the food service is limited to members and their invited guests.

(2) Churches or charitable organizations who prepare and serve food to the public on their own premises at one function a month or not more than twelve functions a year.

(3) Food service such as soup kitchens and food banks operated by organizations that are providing food at no cost and not for profit or gain to the public who are in need of food assistance.

(4) A bed and breakfast with 10 or fewer rental rooms and a residential kitchen that provides food service.

(5) Retail food establishments or facilities located on United States Government property and regulated by federal authorities.

(6) Retail food establishments or facilities operated by the United States Government.

(7) Retail food establishments or facilities serving solely as commissaries for interstate carriers.

(8) Retail food establishments or facilities on vehicles or common carriers for hire such as airplanes, trains (including maintenance crew cook cars), ships, and other similar conveyances.

(9) Retail food establishments or facilities governed by other regulations when such regulations are determined by the Department to be satisfactory.

(10) Food from retail food establishments outside the jurisdiction of the Department or the State of South Carolina which is sold within the State of South Carolina if such retail food establishments conform to the provisions of this regulation or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Department may accept reports from responsible authorities in other jurisdictions where such retail food establishments are located.

(11) Bake sales operated by churches or charitable organizations where homemade cakes, breads, and cookies may be offered for sale only if they are not time/temperature control for safety foods.

(12) Home Based Food Production Operations, which prepare non-time/temperature control for safety foods, such as homemade cakes, breads, cookies, and candy, in a private residence kitchen for sale directly to the end consumer.

(13) Boarding houses which provide room and board, which restrict food service to residents only, and do not provide food service to the non-renting public.

(14) Hunt lodges and outdoor-adventure tours that provide room and board as part of a package, and food service is restricted to participants only.

(15) Motels and hotels that prepare non-time/temperature control for safety food breakfast foods or serve pre-packaged food.

(16) Taverns that are primarily engaged in the sale of alcoholic beverages and do not engage in the preparation of food.

(17) Cooking schools or classes where registered students are active participants in preparing the food and are the exclusive consumers of the foods prepared.

(18) Personal chefs that are employed to cook for the owner and occupants of a private residence and their guests. A personal chef may purchase the food and shall prepare, cook and serve the food at the private residence only.

(19) Businesses that serve the following non-time/temperature control for safety foods that use a low risk food process:

(a) Popcorn, cotton candy, candy apples;

(b) Snocones or shaved ice;

(c) Soft drinks or beverages;

(d) Nachos served with heated cheese product;

(e) Commercially dehydrated pre-packaged pork skins;

(f) Pre-formed or prepared pretzels that require baking or warming only; or

(g) Other Department-approved non-time/temperature control for safety foods that use a low risk food process.

(20) An individual, operating out of the individual's dwelling, who prepares and sells the following non-time/temperature control for safety foods that use a low risk food process:

(a) Jams, jellies, preserves, and dried fruits

(b) Dry herbs, seasonings, and mixtures

(c) Vinegar and flavored vinegars

(d) Other Department-approved non-time/temperature control for safety foods that use a low risk food process.

The preparation and sale of food items which present a food safety risk such as acidified foods, low acid canned foods, garlic in oil, and fresh fruit or vegetable juices are not exempt from permitting under this provision.

(21) Businesses that serve the following low risk food processes of time/temperature control for safety foods:

(a) Coffee or coffee based beverages served with pasteurized milk or cream prepared and served either heated or cold.

(b) Beverages individually prepared upon consumer's request from a commercially pre-packaged powdered mix with no additional ingredients that are time/temperature control for safety foods, and served in a single service cup;

(c) Commercially pre-packaged, pre-cut frozen french fries;

(d) Salt boiled peanuts;

(e) Boiled or grilled corn;

(f) Snow cones or shaved ice served with pasteurized cold milk or cream from a non-reusable container;

(g) Waffle or pancake mix that is commercially pre-packaged and dispensed from self-serve units for service not to exceed four (4) hours in duration. Leftover portions of these products shall be discarded at the end of service; and

(h) Funnel cakes, minidonuts, or similar type products prepared from a single unit having no more than three fryers. Mixed batters shall not be held out of temperature more than four (4) hours. Leftover portions of these products shall be discarded at the end of service.

For the purpose of 8-301.12(A)(21), the low risk food processes of time/temperature control for safety foods shall not include meat, poultry, fish, or game animals.

(22) Convenience stores or other businesses that offer for sale only pre-packaged food from a food processing plant.

(23) Vending machines that provide only pre-packaged food from a food processing plant.

(B) The Department may require a facility to submit information sufficient to determine if the facility is exempt from the permit requirement or must apply for and obtain a retail food establishment permit. This information may include, but is not limited to, designation of charitable status, leases or proof of ownership, equipment specifications, menus, ingredient lists, food packaging, and food preparation methods.

(C) Although the establishments listed in 8-301.12(A) do not require a permit, the Department retains the authority to conduct an investigation in response to a complaint. The Department may require corrective action and issue orders as deemed necessary in response to food safety or health risks identified during the investigation.

8-302 Application Procedure

8-302.11 Submission Thirty (30) Calendar Days Before Proposed Opening.

An applicant shall submit a complete application for a permit at least thirty (30) calendar days before the date planned for opening a retail food establishment except as specified in 8-303.20 (A)(1).

8-302.12 Form of Submission.

A person desiring to operate a retail food establishment shall submit to the Department a written application for a permit on a form provided by the Department.

8-302.13 Qualifications and Responsibilities of Applicants.

To qualify for a permit, an applicant shall:

(A) Be an owner of the proposed retail food establishment or an officer of the legal entity owning the proposed retail food establishment;

(B) Comply with the requirements of this regulation;

(C) As specified under 8-402.11, agree to allow access to the retail food establishment and to provide required information; and

(D) Pay the applicable Initial Permit/First Year Operational fee of one hundred dollars ($100.00) plus the applicable annual inspection fee for the anticipated gross sales of food and food products as identified in the table in section 8-304.11(A)(3) at the time the application is submitted. The fee shall be paid prior to the issuance of the permit.

8-302.14 Contents of the Application.

(A) The following application documentation shall be submitted as part of the application process:

(1) A complete retail food establishment application and any applicable supplement form(s);

(2) Menu or list of foods to be served;

(3) Anticipated volume of food to be stored, prepared, and sold or served;

(4) Approval of variances;

(5) Verification of approved drinking water supply;

(6) Verification of approved method of sewage disposal;

(7) Documentation that the construction of this facility meets the standards set forth in this regulation and all other applicable regulations and codes;

(8) For new facilities, based on facility type, proposed layout, mechanical schematics, construction materials, and finish schedules to comply with the applicable sections of the regulation;

(9) For new facilities, based on facility type, proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications to comply with the applicable sections of the regulation;

(10) Documentation of completed training if required.

(B) Only when an application has been submitted, is considered complete, and the applicable inspection fee has been paid, may the applicant request a preoperational inspection for the proposed retail food establishment.

(C) If at any time during the preoperational inspection the information provided during the application process changes or is altered, the Department may require a new application to be submitted.

(D) The Department shall not issue a permit until the facility is in full compliance with the requirements of this regulation.

(E) The Department may deny a new permit based on past compliance or enforcement history.

8-303 Issuance

8-303.10 New, Converted, or Remodeled Establishments.

The Department shall issue a permit to the applicant only after the following are submitted or completed:

(A) A properly completed application;

(B) Documentation that the construction of this facility meets the standards set forth in this regulation and all other applicable regulations and codes; and

(C) A preoperational inspection as specified in 8-203.10 shows that the establishment is built or remodeled in accordance with this regulation.

8-303.20 Existing Establishments and Change of Ownership.

(A) Routine Change of Ownership.

(1) When a retail food establishment is in the process of changing ownership, the Department shall be notified immediately.

(2) Within fifteen (15) calendar days from the date of the change of ownership, the new owner shall submit a complete application for a new permit as required in 8-302.12 and pay applicable Department fees as provided in 8-302.13(D).

(3) The Department shall review the application for a change of ownership, and

(a) If the Department determines, pursuant to 8-304.11, the new owner is making changes to the existing permit operations, the change of ownership protocol shall not apply; and

(b) The retail food establishment shall then be subject to all requirements of 8-303.10; and

(c) The facility may be required to close while changes to the facility are evaluated for compliance with the requirements of the regulation. Failure to cease operations and close the facility as required by the Department during evaluation of changes to existing permit operations will constitute operation of a retail food establishment without a permit in violation of this regulation. The facility must remain closed unless and until a new permit is issued to the facility.

(4) Upon receipt of a complete application, the Department will conduct an inspection to determine compliance with Regulation 61-25. A permit shall not be issued to a retail food establishment for a change of ownership if:

(a) The retail food establishment has conditions that constitute an imminent health hazard;

(b) Has any priority or priority foundation violations; or

(c) Has a score of 87 or below.

(5) If the new owner fails to submit a complete and timely application, fails to pay applicable fees under (A)(2) of this section, or fails to obtain compliance at the permit inspection under (A)(4)(a) of this section, the retail food establishment shall cease and close all food operations immediately. Any continued operation of the facility will constitute operation of a retail food establishment without a permit in violation of this regulation. The facility must remain closed until a new permit is issued to the facility.

(6) If the new owner fails to obtain compliance at the permit inspection under (A)(4)(b) or (A)(4)(c), the retail food establishment may continue food operations for a time period not to exceed fifteen (15) calendar days. The retail food establishment must obtain compliance at a follow-up permit inspection during the fifteen (15) day period. If the new owner fails to obtain compliance within the fifteen (15) day period, the retail food establishment shall cease and close all food operations immediately. Any continued operation of the facility will constitute operation of a retail food establishment without a permit in violation of this regulation. The facility must remain closed until a new permit is issued to the facility.

(7) Within ninety (90) calendar days of the permitted change of ownership, the retail food establishment shall be in full compliance with 5-103.11, 5-203.11, 5-203.13, and 5-204.12 of this regulation.

(a) Failure to comply with this requirement will result in permit suspension and

(b) The permit will then remain suspended until the retail food establishment obtains full compliance with all parts of this regulation.

(B) Change of Ownership in Facilities under Enforcement Action.

(1) Retail food establishments under enforcement action are not eligible for a change of ownership protocol as stated in section (A) above.

(2) A person who wants to take ownership of a retail food establishment under enforcement action shall apply for a new permit and shall provide documentation that demonstrates a bona fide change of ownership. This documentation includes, but is not limited to, a bill of sale for the business, a new lease or bill of sale for the building, a new business or liquor license, or applications for these licenses in the new owner's name, and documentation of management and staffing changes the new owner proposes.

(3) If the Department determines that the change of ownership is bona fide, the Department shall notify the new owner in writing that the retail food establishment is subject to a pending enforcement action and that any and all actions necessary to satisfy the enforcement action must be completed before the Department will issue a permit to the new applicant.

(4) If the Department determines that the change of ownership is not bona fide, the Department shall return the permit application and the inspection fee to the applicant and shall notify the applicant in writing that the retail food establishment is subject to a pending enforcement action and that any and all actions necessary to satisfy the enforcement action must be completed before the Department will process an application for a new permit.

8-303.30 Denial of Application for Permit, Notice.

If an application for a permit to operate is denied, the Department shall provide the applicant with a notice that includes:

(A) The specific reasons and regulation citations for the permit denial;

(B) The actions, if any, that the applicant must take to qualify for a permit.

8-304 Conditions of Retention

8-304.10 Responsibilities of the Department.

(A) At the time a permit is first issued, the permit holder shall demonstrate access to a copy of this regulation and that the permit holder is knowledgeable of the compliance requirements and the conditions of retention, as specified under 8-304.11, that are applicable to the permit.

(B) Failure to provide the information specified in (A) of this section does not prevent the Department from taking authorized action or seeking remedies if the permit holder fails to comply with this regulation or an order, warning, or directive of the Department.

8-304.11 Requirement to Comply with Regulation and Conditions of Permit.

(A) Once a permit has been issued by the Department, the permit holder, in order to retain the permit, shall:

(1) Comply with the provisions of this regulation and all terms and conditions stated on the permit document;

(2) As specified under 8-402.11, agree to allow the Department access to the retail food establishment and to provide required information; and

(3) Pay to the Department annual inspection fees as follows:

(a) Annually, each retail food establishment shall determine and pay to the Department the applicable inspection fee, based on the gross sales of food and food products for the facility's previous business year, using the table below. As provided in 8-302.13(D), a person or facility applying for an Initial/First Year Operational Permit or change of ownership for a retail food establishment shall determine and pay to the Department the applicable inspection fee using the table below, based on anticipated gross sales of food and food products during the facility's first year of operations. Payment shall be due thirty (30) days from the Department billing date. A penalty charge of fifty dollars ($50.00) shall be assessed for fees that are thirty (30) days past due. A second penalty charge of fifty dollars ($50.00) shall be assessed for fees that are sixty (60) days past due. Permit holders of retail food establishments shall furnish previous business year sales information upon request of the Department. This information shall be exempt from disclosure pursuant to the South Carolina Freedom of Information Act, S.C. Code Section 30-4-40(a)(2).

Sales	Fee
$0-$250,000	$100.00
$250,000 - $500,000	$150.00
$500,000- $750,000	$200.00
$750,000- $1,000,000	$250.00
$1,000,000 - $1,250,000	$300.00
$1,250,000 - $1,500,000	$350.00
$1,500,000 - $1,750,000	$400.00
$1,750,000 and above	$450.00

(b) Failure to meet the requirements of 8-304.11(A)(3)(a) will result in initial permits not being issued or existing permits being suspended. Retail food establishments that have not paid their inspection fee and late payment penalties after ninety (90) days from the original billing date shall have their permit suspended following service of notice of suspension. The Department may reinstate a permit suspended for failure to pay renewal fees upon payment of the fees, penalties, and a $25.00 reinstatement fee.

(c) The following retail food establishments shall be exempt from fees:

(i) Retail food establishments that are operated by a public or private school (kindergarten through grade twelve) or that are operated by a child care facility that is licensed and inspected by the Department of Social Services.

(ii) Retail food establishments operated by health care facilities that are regulated and inspected by the Department.

(iii) Retail food establishments operated by other state agencies or local governments that provide food for patients, clients, or inmates.

(iv) Retail food establishments operated by non-profit organizations for the purpose of providing meals or food to needy persons at little or no cost, or for the purpose of raising money for a charitable cause. Non-profit organizations claiming exemption from fee charges shall certify annually to the Department that the organization meets these criteria and, upon request, provide documentation supporting any such certification.

(4) Have access to and knowledge of this regulation. Copies may be viewed on the Department website.

(5) Operate as a retail food establishment (serve or sell food) for no less than fifteen (15) consecutive days annually, or be in operation for at least one (1) day a week for no less than fifteen (15) weeks annually.

(B) The Department shall be notified prior to any retail food establishment changes including, but not limited to, the following items:

(1) Location;

(2) Service or seating capacity;

(3) Drinking water or sewage disposal provider;

(4) Change of hot water generation and distribution system(s);

(5) Change of ownership;

(6) Permanent closure;

(7) Installation of equipment and/or structural modifications;

(8) A corrected billing or mailing address within ten (10) calendar days of any change of address;

(9) Shared use operations capacity.

(C) The Department shall be notified prior to adding a food item to the menu that:

(1) Involves a food preparation process which may consist of cooking, cooling, or reheating food which was not performed in the retail food establishment or

(2) Poses a health risk to consumers because it is a raw animal food served raw or undercooked.

(D) Once the Department is notified or becomes aware of changes under (B)or (C) of this section, the Department may amend the permit and may require additional changes as required by this regulation.

(E) Any change under (B) or (C) of this section, not previously approved or authorized by the Department, may subject the retail food establishment to enforcement action, including, but not limited to, civil penalties, permit suspension, permit revocation, or a combination of these.

8-304.20 Permits Not Transferable.

A permit may not be transferred:

(A) From one person or legal entity to another person or legal entity,

(B) From one retail food establishment to another, or

(C) From one type of operation to another if the food operation changes from the type of operation specified in the application and the change in operation is not approved or authorized.

8-4 INSPECTION AND CORRECTION OF VIOLATIONS

8-402 Access

8-402.11 Access.

(A) The Department staff, after proper identification, shall be allowed to enter any retail food establishment at any time the establishment is occupied for the purpose of making an announced, unannounced, or complaint inspection(s) to determine compliance with this regulation.

(B) The Department staff shall be allowed to examine all areas of the facility and all records of the retail food establishment to obtain information pertaining to equipment, food, or supplies purchased, received, or used.

8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.

If a person denies access to the Department, the Department shall inform the person that:

(A) The permit holder is required to allow access by Department as specified under 8-402.11 of this regulation,

(B) Access is a condition of the acceptance and retention of a retail food establishment permit to operate as specified under 8-304.11, and

(C) If access is denied, the Department may issue an order for access pursuant to 8-402.11, obtain a warrant, or pursue access as allowed by other applicable laws.

8-402.30 Refusal, Reporting.

If after the Department presents credentials as specified under 8-402.11, explains the authority upon which access is required, and the person in charge continues to refuse access, the Department shall provide details of the denial of access on an inspection report form.

8-402.40 Order to Gain Access.

If, after an order has been issued by the Department pursuant to 8-402.20(C), the Department is denied access to a retail food establishment for an authorized purpose, the Department may initiate enforcement action including assessment of civil penalties, permit suspension, and/or permit revocation as provided in 8-904.110 and 8-913.10.

8-403 Report of Findings

8-403.10 Documenting Information and Observations.

(A) The findings shall be recorded on the inspection report, and upon completion of the inspection, the weighted sum of the items in violation shall be totaled and subtracted from one hundred (100) to determine the numerical score.

(B) The Department may use whatever means necessary to record violations, including, but not limited to, electronic inspection programs, manual inspection forms, photographs, video, and printed materials.

(C) Grades of permitted retail food establishments shall be as follows:

(1) Grade A - A permitted retail food establishment having a rating score of eighty-eight to one hundred (88-100) points.

(2) Grade B - A permitted retail food establishment having a rating score of seventy eight to eighty seven (78-87) points.

(3) Grade C - A permitted retail food establishment having a rating score of seventy-seven (77) or less points.

(D) Immediately following each inspection, the Department shall post the appropriate grade decal in the retail food establishment, and shall furnish a copy of the completed inspection report to the permit holder, person in charge, or an employee of the retail food establishment.

(E) A grade decal shall be posted by the Department in a location that is conspicuous to consumers. The retail food establishment shall not obscure, cover, deface, relocate, or remove the posted grade decal.

(F) Notwithstanding the grade criteria established in (C) of this section, when a consecutive violation is discovered, the Department may:

(1) Schedule appropriate follow-up inspections as specified in 8-405.11; or

(2) Downgrade the retail food establishment to the next lower grade; or

(3) Suspend the permit.

(G) Notwithstanding the grade criteria established in (C) of this section, there are circumstances and conditions under which the grade decal posted may differ from the numerical score of the inspection report:

(1) When the retail food establishment is under enforcement action; or

(2) When the retail food establishment has a consecutive violation(s).

(3) When, in accordance with S.C. Code Ann. Section 1-23-370, the retail food establishment is under the following pending enforcement actions,

(a) Imminent health hazard,

(b) Permit suspension, or

(c) Permit revocation.

(H) The permit holder or operator of any retail food establishment in which the grade has been lowered may request an inspection for the purpose of re-grading the retail food establishment. The request shall include a signed statement by the permit holder, person in charge, or employee that all violations have been corrected. The Department shall respond to the request within ten (10) calendar days.

8-403.20 Specifying Time Frame for Corrections.

The Department shall specify on the inspection report form the time frame for correction of the violations as specified under 8-404.11 and 8-405.11.

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

A copy of the completed inspection report form shall be furnished to the permit holder, person in charge, or an employee at the conclusion of the inspection. The report may be furnished in either electronic or printed form.

8-403.40 Refusal to Sign Acknowledgement.

The Department shall inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in 8-403.30 that:

(A) An acknowledgment of receipt is not an agreement with findings;

(B) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(C) Refusal to sign an acknowledgment of receipt is noted in the inspection report and maintained in the Department's record for the retail food establishment.

8-403.50 Public Information.

The Department shall treat inspection reports as public documents and shall make them available for disclosure to persons upon request as provided in law.

8-404 Imminent Health Hazard

8-404.11 Imminent Health Hazard.

(A) The Department, without prior notice or hearing, may suspend the permit to operate a retail food establishment when it is determined that the operation of the retail food establishment constitutes an imminent health hazard to public health except as specified under (E) of this section. [P]

(B) Following permit suspension due to an imminent health hazard, all food service operations shall immediately cease.

(C) The Department shall promptly notify, in writing, the permit holder, person in charge, or an employee of the specific reasons for which the permit was suspended.

(D) A retail food establishment may voluntarily close prior to the Department declaring an imminent health hazard but shall remain closed until authorized by the Department to resume operations.

(E) A permit holder may continue operations in areas of the establishment that are unaffected by the imminent health hazard.

(F) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may, but is not required to, agree to continuing operations in the event of an extended interruption of electrical or water service if:

(1) A written emergency operating plan has been approved by the Department;

(2) Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and

(3) The Department is informed upon implementation of the written emergency operating plan.

8-404.12 Resumption of Operations.

(A) If operations are discontinued as specified under 8-404.11 or otherwise according to law, the permit holder shall obtain approval from the Department before resuming operation.

(B) Notwithstanding 8-904.20, a permit suspended for an imminent health hazard shall remain suspended until the imminent health hazard has been corrected.

8-405 Correction of Violations

8-405.11 Correction of Violations.

(A) The completed inspection report form shall specify a period of time for the correction of the violations found. Implementation of corrective action of all violations shall be within the following specified time periods:

(1) All priority and priority foundation violations shall be corrected immediately. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may schedule a follow-up inspection not to exceed ten (10) calendar days from the date of the inspection. [Pf]

(2) All core violations that are operational shall be corrected as soon as possible. Verification of correction will be made at the time of the next routine inspection or earlier if deemed necessary by the Department.

(3) Except as specified in (4) of this section, all consecutive core violations shall be corrected as soon as possible. A follow-up inspection shall be conducted to confirm correction within ten (10) calendar days from the date of the inspection.

(4) All core violations that are structural shall be corrected by the next routine inspection; however, additional time, not to exceed twelve (12) months, may be granted when such allowances present no public health hazard and the permit holder provides a written schedule for compliance.

(B) When a retail food establishment's routine inspection score is in the Grade C range or lower (less than 78 points), a subsequent routine inspection must be performed within sixty (60) calendar days of that C grade or lower inspection.

(C) Other than occurrences where a third consecutive inspection is rated below seventy (70) as described in 8-904.110 (C), when the rating score of the retail food establishment is less than seventy (70):

(1) The retail food establishment shall be downgraded to a grade C.

(2) Immediate corrective action on all identified priority, priority foundation, and core violations shall be initiated. [Pf]

(a) If priority and priority foundation violations cannot be corrected immediately the retail food establishment will be given the opportunity to cease all operations and close the facility voluntarily.

(b) If the retail food establishment refuses to cease operations voluntarily, the Department shall declare an imminent health hazard under 8-404.10.[P]

(3) Once a retail food establishment is closed, the retail food establishment will be allowed to reopen when all priority and priority foundation violations are corrected, as determined by the Department.

(4) A follow-up inspection shall be conducted within seventy-two (72) hours from the date of the inspection and as often as necessary to assure correction. If the retail food establishment fails to score seventy (70) or above on the follow-up inspection, action to suspend the permit shall be initiated.

8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

8-501 Investigation and Control

8-501.10 Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The Department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(A) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and/or

(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

8-501.20 Restriction or Exclusion of Food Employee or Summary Suspension of Permit.

Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the Department may issue an order to the suspected food employee or permit holder instituting one or more of the following control measures:

(A) Restricting the food employee;

(B) Excluding the food employee; or

(C) Closing the retail food establishment by summarily suspending a permit to operate in accordance with law.

8-501.30 Restriction or Exclusion Order: Prior Warning or Hearing Not Required, Information Required in Order.

Based on the findings of the investigation as specified in 8-501.10 and to control disease transmission, the Department may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:

(A) States the reasons for the restriction or exclusion that is ordered;

(B) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated; and

(C) States that the suspected food employee or the permit holder may request a hearing as provided in law.

8-501.40 Removal of Exclusions and Restrictions.

A food employee, or conditional employee shall be released from restriction or exclusion when the employee or conditional employee no longer poses a threat to the public health.

8-6 CONSTITUTIONAL PROTECTION

8-602 Judicial Review

8-602.10 Rights of Recipients of Orders or Decisions.

A recipient of a Department decision or order may appeal the decision or order in accordance with applicable law.

8-7 AUTHORITY

8-701 Legal Authority

8-701.10 Adoption of Regulations and Enforcement.

(A) This regulation is issued under the authority of S.C. Code of Laws, Section 44-1-140, and shall be enforced by the Department.

(B) Should any chapter, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

8-701.20 Enforcement.

Any facility found to be in violation of this regulation, in non-compliance with the requirements of this regulation, or in violation of an order issued by the Department shall be subject to civil penalties, permit suspension, and/or revocation pursuant to S.C. Code Ann. Section 44-1-150 and this regulation.

8-9 REMEDIES

8-903 Holding, Examination, and Destruction of Food

8-903.10 Hold Orders, Justifying Conditions, and Removal of Food.

(A) The Department may place a hold order on a food which is believed to be in violation of this regulation that:

(1) Originated from an unapproved source;

(2) May be unsafe, adulterated, or not honestly presented;

(3) Is not labeled according to law, or, if raw molluscan shellfish, is not tagged or labeled according to law; or

(4) Is otherwise not in compliance with this regulation.

(B) Should the hold order be violated, action may be initiated to suspend the permit.

(C) The Department may condemn, forbid the sale of, or cause to be removed or destroyed, any food, which is determined to be in violation of this regulation, unwholesome, contaminated, adulterated, or from an unapproved source.

8-903.20 Hold Order, Prior Warning, or Hearing Not Required.

The Department may issue a hold order to a permit holder or to a person who owns or controls the food, as specified in 8-903.10, without prior warning, notice of a hearing, or a hearing on the hold order.

8-903.30 Hold Order, Contents.

The hold order shall:

(A) State that food subject to the order may not be used, sold, moved from the retail food establishment, or destroyed without a written release from the Department;

(B) State the specific reasons for placing the food under the hold order with reference to the applicable provisions of this regulation and the hazard or adverse effect created by the observed condition;

(C) Completely identify the food subject to the hold order by the common name, the label information, a container description, the quantity, tag or identification information, and location;

(D) State that the permit holder has the right to a hearing and may request a hearing in accordance with applicable law; and

(E) State that the Department may order the destruction of the food if a timely request for a hearing is not received.

8-903.40 Hold Order, Official Tagging of Food.

(A) The Department shall securely place an official tag or label on the food or containers or otherwise conspicuously identify food subject to the hold order.

(B) The tag or other method used to identify a food that is the subject of a hold order shall be signed and dated by the Department.

8-903.51 Hold Order, Food May Not Be Used or Moved.

(A) Except as specified in (B) of this section, a food placed under a hold order may not be used, sold, served, or moved from the establishment by any person.

(B) The Department may allow the permit holder the opportunity to store the food in an area of the retail food establishment if the food is protected from subsequent deterioration and the storage does not restrict operations of the establishment.

8-903.70 Hold Order, Removing the Official Tag.

Only the Department may remove hold order tags, labels, or other identification from food subject to a hold order.

8-903.80 Destroying or Denaturing Food.

If a hold order is sustained upon appeal or if a timely request for a hearing is not filed, the Department may order the permit holder or other person who owns or has custody of the food to bring the food into compliance with this regulation or to destroy or denature the food under the Department's supervision.

8-903.90 Releasing Food from Hold Order.

The Department shall issue a notice of release from a hold order and shall remove hold tags, labels, or other identification from the food if the hold order is vacated.

8-904 Permit Suspension

8-904.10 Conditions Warranting Summary Suspension.

The Department may summarily suspend a permit to operate a retail food establishment if it determines through inspection, or examination of employees, food, records, or other means as specified in this regulation, that an imminent health hazard exists.

8-904.20 Summary Suspension, Warning, or Hearing Not Required.

The Department may summarily suspend a retail food establishment's permit by providing written notice of the summary suspension to the permit holder or person in charge, without prior warning, notice of a hearing, or a hearing.

8-904.30 Contents of the Summary Suspension Notice.

A summary suspension notice shall state:

(A) That the retail food establishment permit is immediately suspended and that all food operations shall immediately cease;

(B) The reasons for summary suspension with reference to the provisions of this regulation that are in violation;

(C) The name and address of the Department representative to whom a written request for re-inspection may be made and who may certify that reasons for the suspension are eliminated; and

(D) That the permit holder may request a hearing in accordance with applicable law.

8-904.40 Time Frame for Re-inspection.

After receiving a written request from the permit holder stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a re-inspection of the retail food establishment for which the permit was summarily suspended within five (5) business days, which means five (5) days during which the Department's office is open to the public.

8-904.50 Term of Summary Suspension, Reinstatement of Permit.

(A) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department, through re-inspection, has confirmed their elimination and other means as appropriate.

(B) The suspended permit shall be reinstated if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the permit holder or person in charge.

8-904.110 Suspension of Permits.

(A) The Department may suspend permits for:

(1) Consecutive priority and priority foundation violations;

(2) Consecutive core violations;

(3) Below seventy (70) inspection scores;

(4) Failure to comply with the terms and conditions of the permit;

(5) Failure to notify the Department of facility changes and to seek amendments to a permit as required by Section 8-304.11;

(6) Failure to provide the Department access to the retail food establishment for the purpose of conducting an inspection or investigation;

(7) Covering, obscuring, defacing, relocating, or removing the posted grade decal or permit;

(8) Violation of a hold order;

(9) Failure to pay applicable inspection renewal fee or failure to pay a civil penalty required pursuant to a Department order;

(10) Failure to operate as a retail food establishment (serve or sell food) for at least fifteen (15) consecutive days annually or be in operation for at least one day every week for at least fifteen (15) weeks.

(11) As otherwise determined by the Department pursuant to 8-102.10.

(B) The Department may revoke permits for:

(1) Recurring failure to notify the Department of facility changes or to seek amendments to the permit;

(2) Recurring failure to comply with the Terms and Conditions of the permit;

(3) Recurring priority and priority foundation violations of the regulation;

(4) Recurring failure to provide the Department access to the retail food establishment for the purpose of conducting an inspection or investigation;

(5) Three (3) routine inspections in a two (2) year period that have a rating score of below seventy (70); or

(6) Failure to operate as a retail food establishment (serve or sell food) for at least fifteen (15) consecutive days annually or be in operation for at least one day every week for at least fifteen (15) weeks.

(C) When a facility has a rating score of below seventy (70):

(1) On the second routine inspection, Department staff shall be accompanied by an additional representative for verification of violations.

(2) When the second routine inspection results in a score below seventy (70), the Department shall notify the permit holder, by letter, that if on the next routine inspection the score is less than seventy (70) action will be initiated to revoke the permit.

(3) On the third routine inspection, Department staff shall be accompanied by a standardization officer of the Department.

8-904.120 Notification of Permit Suspension and Permit Revocation.

Except as provided in 8-904.20, prior to permit suspension or permit revocation, the Department shall notify, in writing, the permit holder, person in charge, or an employee of the specific reasons for which the permit is to be suspended or revoked.

8-904.130 Term of Suspension, Reinstatement of Permit.

A permit suspension shall remain in effect until the conditions cited in the notice of permit suspension no longer exist and their elimination has been confirmed by the Department through re-inspection and other means as appropriate.

8-904.140 Interference with the Department.

Notwithstanding any other provisions of this regulation, the permit shall be revoked if a permit holder, person in charge, or employee engages in any of the following actions towards Department staff while performing, or as a result of performing, official duties and responsibilities:

(A) Physical or verbal actions that constitute assault, battery, sexual or other harassment, or

(B) Interference, intimidation, threat, or attempted bribery.

8-905 Appeals

8-905.10 Appeals.

A Department decision to deny an application for a permit, deny a request for a variance, impose a penalty, or suspend or revoke a permit may be appealed pursuant to applicable law.

8-905.40 Hearings and Appeals Procedures.

All appeals and hearings shall be conducted in accordance with applicable law.

8-913 Civil Penalties

8-913.10 Penalties.

Civil penalties for violations of this regulation or an order of the Department may be imposed pursuant to S.C. Code Ann. Section 44-1-150.

Chapter 9 Standards for Additional Retail Food Establishment Operations

9-1 MOBILE FOOD

This standard shall apply to the construction and operation of mobile food units as part of a retail food establishment.

(A) Definitions.

(1) A **mobile food establishment** consists of a commissary and mobile food unit(s) or mobile food pushcart(s).The food service portion of the operation is conducted from a movable driven or propelled vehicle, portable structure, or watercraft that can change location.

(2) A **commissary** is a permitted retail food establishment that is authorized by the Department to provide support of operations, storage, and servicing area for mobile food units or mobile food pushcarts, and is

constructed and operated in compliance with the requirements of this regulation and standard. Retail food establishments that prepare and serve food to highly susceptible populations such as those operated by health care facilities that are regulated by the Department shall not be approved as a commissary.

(3) **Mobile food units** are fully enclosed mobile kitchens that may prepare, cook, or serve time/temperature control for safety foods as an extension of the commissary. A mobile food unit must be permitted by the Department in order to operate from a retail food establishment.

(4) **Mobile food pushcarts** are limited food service units that operate as an extension of a commissary. A mobile food pushcart must be permitted by the Department in order to operate from a commissary.

(B) General.

(1) A mobile food establishment shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(2) The Department may prohibit the sale of certain time/temperature control for safety foods, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) For servicing and storage:

(a) A full-service (self-contained) mobile food unit must return to the commissary at a frequency necessary to maintain sanitary conditions but in no case may operate for longer than seventy-two (72) hours of operation without returning to the commissary.

(b) Non-self-contained mobile food unit(s) and mobile pushcart(s) must return to the commissary within twenty-four (24) hours of operation.

(c) Mobile food unit(s) and mobile pushcart(s) that are not stored at the commissary must submit the proposed storage location for Department approval.

(C) Employees.

(1) Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings should be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-service article storage, and utensil washing areas.

(**D) Food.**

(1) General.

(a) A mobile food establishment shall prepare, hold, and serve food according to Chapter 3, *Food*.

(b) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(c) Adequate refrigeration or coolers shall be provided. A temperature measuring device shall be provided for cold holding units.

(d) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or it's positioning in the ice or water.

(e) Ice used as a coolant for foods shall not be used for edible ice.

(f) For the purpose of checking temperatures of food, a mobile food establishment shall have at least one temperature measuring device that meets the following requirements:

(i)Able to be calibrated and

(ii) Appropriate for the food density being checked.

(g) Hot held time/temperature control for safety foods on a mobile food unit or mobile pushcart shall be discarded at the end of the day at the commissary.

(h) Food(s) shall be stored, displayed, and served from the mobile food unit(s) and mobile food pushcart(s) only.

(2) Mobile Food Unit.

(a) Preparation of bulk food, including washing, slicing, peeling, and cutting, shall occur at the commissary.

(b) All food, single-service articles, and other items used for the operation of the mobile food unit shall be stored at the commissary or on the mobile food unit.

(c) Doors on mobile food units shall be kept closed at all times.

(3) Mobile Food Pushcart.

(a) All food, single-use articles, and other items used for the operation of the mobile food pushcart shall be stored at the commissary.

(b) Other than assembling food items for service, all food preparation, including washing, slicing, peeling, cutting, and cooking, shall occur at the commissary.

(c) Raw animal food shall not be cooked or prepared in any way on a mobile food pushcart.

(d) Door(s) on mobile food pushcarts shall be kept closed when not in use and during transportation.

(E) Service.

(1) During operations, food shall be stored, cooked, displayed, and served from the mobile food unit and mobile food pushcart only.

(2) Customer self-service of unpackaged time/temperature control for safety food is prohibited.

(3) Mobile food units and mobile food pushcarts shall provide only single-use articles for use by the consumer.

(4) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(5) Equipment and utensils shall be adequate in number and where appropriate shall be washed, rinsed, and sanitized as needed.

(6) In-use wiping cloths must be stored in a clean solution of an approved sanitizer.

(7) A test kit that accurately measures the parts per million concentration of an approved sanitizer shall be accessible and used.

(F) Construction.

(1) Mobile food units.

(a) Mobile food units shall have preparation and display areas completely enclosed with a solid material except as specified in (j) of this section.

(b) The serving window opening shall:

(i) Have an area of no more than five hundred seventy-six (576) square inches, and

(ii) Be covered with solid material or screen. Screening shall be at least sixteen (16) mesh per inch.

(iii) Be self-closing or free falling type, or covered by an approved air curtain when the serving window is open.

(c) Walls, floors, and ceilings must be smooth, cleanable, durable, and nonabsorbent.

(d) Light bulbs and fluorescent tubes shall be shielded, coated, or otherwise shatter-resistant and provide twenty (20) foot candles of illumination.

(e) Cooking and reheating equipment shall be installed on the unit, used in accordance with the manufacturer's instructions, and must meet the provisions of this regulation. Pull behind cookers or smokers are prohibited.

(f) All mobile food unit counters, shelves, and food contact surfaces shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable, and free of seams and difficult to clean areas.

(g) It is not the intent for mobile food units to wash, rinse, and sanitize utensils or equipment on the mobile food unit due to hot water demands. If mobile food units are designed to be self sufficient, a utensil washing sink shall:

(i) Have at least three (3) compartments large enough to accommodate two thirds of the largest utensil,

(ii) Have adequate space for air-drying,

(iii) Be supplied with hot and cold water under pressure, and

(iv) Be equipped with a mixing faucet that is capable of servicing all sink compartments per 4-301.12.

(h) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors.

(i) All mechanical exhaust ventilation equipment shall be installed and maintained in accordance to 4-301.14.

(j) Barbecue pit-cooking areas on mobile units must comply with 9-7, *Barbecue Pit And Pit-Cooking Room Construction.*

(2) Mobile food pushcarts.

(a) Mobile food pushcarts shall have preparation and display areas completely enclosed with a solid material.

(b) Food compartment(s) and food storage compartments must be adequately sized for the intended operation of the mobile food pushcart.

(c) Food compartments must be constructed from materials that are nontoxic, smooth, easily cleanable, durable, and constructed to facilitate the cleaning of the interior and exterior of the compartment.

(d) Food storage compartments shall not contain plumbing of any kind.

(e) All mobile food pushcart counters/shelves and food contact surfaces shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable, and free of seams and difficult to clean areas.

(G) Handwashing Sinks.

(1) All mobile food units and mobile food pushcarts shall have a separate handwashing sink.

(2) Soap and disposable paper towels shall be provided and adjacent to the handwashing sink.

(3) The handwashing sink shall be:

(a) Equipped with hot and cold water under pressure through a mixing valve or combination faucet. The hot water temperature shall be at least 100 degrees F (37 degrees C) as specified in 5-202.12; and

(b) Separated from food and food contact surfaces by either a splashguard or a distance of at least 12 inches; and

(c) Unobstructed and accessible to employees at all times.

(4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Water System.

(1) All mobile food units and mobile food pushcarts shall have a drinking water system, under pressure, from an approved drinking water supply system.

(2) Mobile food units and mobile food pushcarts water tanks shall comply with 5-3 of this regulation.

(3) Approved portable drinking water containers shall be stored and handled in a manner that protects the drinking water and equipment from contamination.

(4) The drinking water system tank shall be a minimum of five (5) gallons and of sufficient capacity to furnish hot and cold water for handwashing as specified in 5-202.12.

(5) If the mobile food unit is designed to be self sufficient, the hot water system shall be sufficient to meet hot water demands of at least 110 degrees F (43 degrees C) to the utensil washing sink and comply with all requirements pursuant to 5-103.11.

(6) A mobile food unit or mobile pushcart may temporarily use a direct connection to an approved drinking water source at the operating location when the following criteria are met:

(a) The mobile unit is connected to an approved public sewer or onsite wastewater system and

(b) Drinking water and sewage storage tanks remain on the unit at all times.

(I) Sewage Retention.

(1) Mobile food units and mobile food pushcarts water tanks shall comply with 5-3 of this regulation.

(2) Sewage from a mobile pushcart may be stored in a removable retention tank that:

(a) Shall be fifteen (15) percent larger capacity than the drinking water supply tank;

(b) Cannot exceed ten (10) gallons (80 lbs) to be approved as portable;

(c) If sewage retention tanks are removable, they shall be permanently labeled ‘sewage’ to eliminate any confusion;

(d) Permanently installed sewage retention tanks on mobile pushcarts shall meet the same requirements as specified in (1) and (2) of this section.

(3) The mobile food unit and mobile pushcart sewage retention tank shall be thoroughly flushed and drained during the servicing operations at the commissary or approved sewage disposal site, and shall be discharged into a sanitary sewerage disposal system or onsite sewage system approved by the Department.

(4) Flushing and draining shall be done in a manner that does not contaminate floors or any other areas in the commissary or the servicing area.

(J) Servicing Area.

The surface of the servicing area shall be constructed of a smooth material, such as concrete or asphalt, and shall be maintained in good repair, kept clean, and be properly drained.

(K) Exemptions.

(1) A mobile food pushcart operated inside fully enclosed structures such as, but not limited to, malls or sports arenas may have the requirement for full enclosure waived if in the opinion of the Department, no risk of contamination to the food exists.

(2) Mobile food pushcarts that are used to serve commercially packaged, fully cooked boiled or steamed hot dogs with commercially packaged, fully cooked chili or ice cream may have the requirement for full enclosure waived if in the opinion of the Department, no risk of contamination to the food exists provided those are the only foods served from the unit.

(L) Compliance.

(1) No mobile food unit or a mobile food pushcart shall operate that does not have a permit issued by the Department.

(2) Only a mobile food establishment that complies with the requirements of this regulation and this standard shall be entitled to receive and retain a permit.

(3) The permit shall be kept in the mobile food unit or mobile food pushcart and shall be accessible at all times.

(4) No retail food establishment shall operate as a commissary that does not have an authorization issued by the Department.

(5) Only a retail food establishment that complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such an authorization.

(6) The permit and authorization shall be kept in a location in the commissary and shall be accessible at all times as specified in 8-301.11.

(7) Any person that proposes to operate a mobile food unit or mobile food pushcart must apply to the Department for a permit through the application process.

(8) The following additional documentation shall be submitted as part of the application process:

(a) A proposed menu or list of foods that will be served from the mobile food unit or mobile food pushcart;

(b) A list of all equipment installed on the mobile food unit or mobile food pushcart;

(c) An operations plan that includes:

(i) Information about methods of cooking, if applicable,

(ii) Hot and cold holding of food,

(iii) The mobile food unit or mobile food pushcart operational locations and the hours of operation at those locations,

(iv) The location of the commissary, and the cleaning and servicing operations at the commissary,

(v) A supplemental application form completed by the permit holder for each mobile food unit or mobile food pushcart; and

(vi) Any other information requested by the Department.

(9) Once a mobile food unit or mobile food pushcart has been permitted, the Department shall be notified of any changes to the mobile food unit or mobile food pushcart, such as, but not limited to, operations, menu, or change in commissary in accordance with 8-304.11.

(10) The mobile food unit or mobile food pushcart shall be available for inspection at the commissary at any reasonable time when requested by the Department.

(11) If a mobile food unit or mobile food pushcart is not presented for inspection at the commissary at the appointed time, the commissary permit and mobile food unit or mobile food pushcart permit shall be suspended in accordance with 8-904.110.

(12) Each mobile food unit and mobile pushcart shall have its business name and address legibly printed in a contrasting color from the color of the mobile food unit or mobile food pushcart in a manner that is conspicuous to the consumer.

(13) Mobile food units or mobile food pushcarts currently permitted prior to the effective date of this regulation and in compliance with the previous regulation, but which do not fully comply with all the construction, equipment, and physical requirements of this regulation, shall be deemed acceptable provided the facilities and equipment:

(a) Are capable of being maintained in a sanitary condition;

(b) Are not a public health hazard or nuisance; and

(c) Are replaced in the normal course of operation with equipment and facilities that meet the requirements of this standard and regulation.

9-2 MEAT/MEAT PRODUCT AND FISH/FISH PRODUCT SALES

This standard shall apply to meat/meat products and fish/fish products from source or preparation site to the point of sale.

(A) General.

(1) Meat/meat products and fish/fish products shall be protected from contamination by use of packaging or covered containers while being transported.

(2) Meat/meat products and fish/fish products being transported shall meet the requirements and sections of this regulation relating to approved source, food supplies, food protection, food storage, and sanitary control of liquid waste.

(3) Acceptable products for meat/meat products and fish/fish products sales under this standard are as follows:

(a) Prepackaged frozen meat and fish/fish products which are processed and packaged in an approved food processing plant and are sold by the package or case,

(b) Fresh unprocessed fish/fish products from an approved source which are whole, or

(c) Fresh unprocessed shrimp with either the heads on or heads removed.

(B) Employees.

Meat/meat products and seafood and freshwater fish shall be delivered by persons with clean hands and wearing clean clothing.

(C) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) Meat/meat products and fish/fish products shall be protected from contamination when transported with other products.

(3) All food employees shall hold and display food according to all applicable sections of Chapter 3, *Food*.

(4) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container, or its positioning in the ice or water.

(5) Whole unpackaged fish/fish products may be stored in ice made from drinking water or obtained from an approved source.

(6) Ice used as a coolant for foods shall not be used for edible ice.

(7) During transport of meat/meat products and fish/fish products, there shall be at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(8) All fresh meat/meat products and fish/fish products shall be transported so as to maintain a temperature of 41 degrees F (5 degrees C) or below during the transportation period.

(D) Cleanliness/ Maintenance.

(1) If meat/meat products and fish/fish products reach their destination at 41 degrees F (5 degrees C) or below, vehicles need not be refrigerated.

(2) The storage portion of each vehicle shall be washed and cleaned.

9-3 OUTDOOR PET DINING

This standard shall apply to outdoor dining areas where table service of food is provided and shall not apply to customer pick up take out service with picnic type dining areas that may be provided by a retail food establishment

(A) Definition.

A **pet** is defined as domesticated cats, dogs, and ferrets.

(B) General.

(1) A retail food service establishment may allow customers to be accompanied by pets in an outdoor dining area provided the retail food service establishment complies with the requirements of this section and all other applicable sections of this regulation.

(2) Pets at retail food establishments shall also comply with the South Carolina Rabies Control Act Section 47-5-60.

(C) Employees.

Employees shall wash hands after any contact with pets, pet supplies, and pet waste.

(D) Service.

(1) All tableware used for the pets shall be restricted to single-service or single-use articles.

(2) Tables and chairs located in the outdoor pet dining area shall be easily cleanable.

(3) Cleaning supplies and sanitizers shall be provided and stored in the outdoor pet dining area. These items shall be exclusively used for outdoor pet dining purposes only and stored outside.

(4) Cleaning equipment necessary for the removal of pet waste shall be provided. These items shall be exclusively used for outdoor pet dining purposes only and stored outside.

(5) Pet waste shall be removed immediately and the area shall be cleaned and sanitized.

(6) A covered refuse container shall be located in the outdoor pet dining area and shall be used exclusively to store all pet waste generated by the outdoor pet dining area.

(E) Construction.

(1) The retail food establishment shall post signs at the entrance of all dining areas stating the facility is pet dining friendly and has an outdoor pet dining area.

(2) The retail food establishment shall post signs stating pets are only allowed in the outdoor pet dining area.

(3) Outdoor pet dining areas shall have an outside entrance.

(4) Pets shall be restricted to the outdoor pet dining area and shall not be allowed in the retail food establishment.

(5) All pets shall be restrained and under control of the owners.

(6) No pets are allowed on a table, countertop, or any other food contact surfaces within the outdoor pet dining area.

(F) Compliance.

(1) Retail food establishments that have pets on the premises and do not comply with this standard shall be cited for violations under Sections 2-403.11 and 6-501.115 as applicable.

(2) This standard shall not apply to service animals in outdoor or indoor dining areas.

9-4 WILD MUSHROOM FORAGING

Wild foraged mushrooms species must be individually inspected and found to be safe by an approved mushroom identification expert that:

(A) Has met the requirements of knowledge and passed an exam given by a 3rd party certifier that has been approved by the Department; and

(B) Will harvest only those mushrooms species listed below:

Pink Chanterelles (Cantharellus cinnabarinus)

Golden Chanterelles (Cantharellus cibarius, C.lateritius, C. Appalachiensis)

Yellow Morel (Morchella esculenta)

Tulip Morel (Morchella deliciosa)

Black morel (Morchella elata)

Black Trumpet (Craterellus fallax)

Lobster (Hypomyces lactifluorum)

Wood Ears (Auricula auricularia, A. Fuscosuccinea)

Chicken of the Woods (Laetiporus sulphureus, L.cincinnatus, L.perscinus)

Beefsteak (Fistulina hepatica)

Hedgehog (Hydnum repandum)

Lions Mane or Pom Pom (Hericium erinaceus, H.ramosum)

White Oyster Mushroom (Pleurotus ostreatus, P. pulmonarius, P. populinus, P.floridanus)

Cauliflower (Sparassis crispa, S.herbstii, S.spathulata)\

Maitake (Grifola frondosa)

Blewits (Clitocybe nuda)

Honey (Armillaria ostoyae, A.mellea, A.tabescens)

Blue Milky (Lactarius indigo)

Golden Milkies (Lactarius corrugis, L.volemus)

Pecan Truffle (Tuber lyonii).

9-5 SHARED USE OPERATIONS

This standard shall apply to retail food establishments designed and operated for use by multiple permit holders.

(A) Definitions.

(1) **Shared use operation** means a facility designed for multiple and individually permitted retail food establishment(s) or other food processing plant(s) operating at different times using the same area and equipment for cooking, processing, or preparing food that is provided to the consumer. The purpose of a shared use operation is to provide farmers, caterers, gourmet food producers, and others interested in the production of food items, a facility to prepare food products. A shared use operation provides a licensed South Carolina Department

of Agriculture or permitted retail food establishment the equipment and individual spaces necessary to prepare, package, store, and label their products. A shared use operation may also serve as a commissary for mobile food establishments provided it meets the requirements as per section 9-1, *Mobile Food*. Retail food establishments that prepare and serve food to highly susceptible populations such as those operated by health care facilities that are regulated by the Department shall not be approved as a shared use operation.

(2) **Facilitator** means the person responsible for all facility structural requirements, equipment, maintenance, and scheduling of a shared use operation.

(B) General.

(1) The facilitator shall obtain a retail food establishment permit and shall be responsible for the facility and equipment maintenance, utilities, refuse removal, and other common use services.

(2) A shared use operation and the associated retail food establishments shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(3) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Compliance

(1) Facilitator.

(a) The facilitator shall provide to the Department the number of associated retail food establishments and/or licensed SCDA operators that the shared use kitchen can accommodate. The shared use operation shall not exceed this number of operators without first notifying the Department.

(b) The facilitator shall maintain a schedule of the associated retail food establishment(s) days and hours of operation. This information shall be provided to the Department weekly for purposes of inspections and foodborne outbreak or complaint investigations.

(c) Only those retail food establishment(s) that are scheduled to use the kitchen for a particular day and time will be allowed in the shared areas.

(d) The facilitator shall ensure that deliveries that are received are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated and accurately presented.

(e) The facilitator shall provide notice to the Department prior to the addition or deletion of associated retail food establishments.

(2) Associated retail food establishments.

(a) Each proposed operator shall obtain a retail food establishment permit.

(b) Each associated retail food establishment shall be responsible for its own operation and shall be required to comply with all applicable sections of the regulation.

(c) Each associated retail food establishments shall have a secured dry storage area(s), and designated space in walk-in coolers and freezers for items exclusive to their operation.

(3) No person shall operate a shared use operation that does not have a permit issued by the Department pursuant to 8-301.11.

(4) Only a person who complies with the requirements of this regulation and standard shall be entitled to receive and retain such a permit.

(5) Any person who proposes to operate a shared use operation must apply to the Department for a permit on the application form provided by the Department pursuant to 8-302.

(6) The Department shall be notified of any changes to the shared use operation or associated retail food establishment, such as, but not limited to, operations, equipment, or menu, in accordance with 8-304.11.

9-6 IMMEDIATE OUTDOOR COOKING

This standard shall apply to retail food establishments that provide food by outdoor cooking, grilling, or roasting of the food on their premises.

(A) Definition.

Immediate outdoor cooking (IOC) is defined as the outdoor cooking, grilling, or roasting of food on the physical premises of a permitted retail food establishment. Immediate outdoor cooking activities shall not be associated with a mobile food unit, mobile food pushcart, farmer's market, or seasonal series.

(B) General.

(1) A retail food establishment that conducts IOC shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) The retail food establishment shall be in operation at all times during any IOC activities.

(4) The retail food establishment is solely responsible for all IOC provisions, including, but not limited to, employees, person in charge, food supplies, and preparations.

(5) The Department must approve the location that is to be considered the IOC area.

(6) The Department may have additional requirements due to environmental conditions that may pose a risk for contamination of food products. Under such conditions, the Department may limit or cease the use of the outdoor cooking and service areas.

(C) Employees.

Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(D) Food.

(1) All food preparation shall be completed inside the permitted retail food establishment.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food employees shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(4) IOC shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(5) Leftover portions of food cooked during IOC shall be discarded immediately. No food shall be stored for future service.

(E) Service.

(1) Equipment used for IOC shall be limited to grills, steam pots and pizza ovens designed for outdoor use.

(2) The Department shall authorize IOC operations based on the following:

(a) The permitted retail food establishment must be of sufficient size and capability to support the same operations inside as well as IOC.

(b) The same or similar size or type of equipment used for cooking inside the permitted retail food establishment may be authorized for IOC.

(c) The same or similar type foods that are cooked inside the permitted retail food establishment may be authorized for IOC.

(3) Only the cooking and immediate service of food will be allowed during IOC operations, except that the serving of displayed food in the immediate cooking area must be completed within four (4) hours for any single function or activity.

(4) Food shall be kept covered, except during times of continuous serving or display.

(5) Covers or lids may be removed only for monitoring, stirring, or adding additional ingredients.

(6) Condiments must be dispensed in individual single-service type packets, pump dispensers, squeeze bottles, shakers, or similar dispensers which minimize contamination of food items by food employees, patrons, vermin, environmental conditions, or other sources.

(7) Equipment and utensils shall be adequate in number to conduct the IOC activities.

(8) In-use wiping cloths shall be stored in a clean solution of an approved sanitizer.

(9) The IOC area shall be effectively separated from the public.

(F) Construction.

(1) Floors shall be constructed of concrete, asphalt, tight wood, or other similarly cleanable material and shall be kept clean and in good repair.

(2) Light bulbs and fluorescent tubes shall be shielded, coated, or otherwise shatter-resistant and provide 20-foot candles of illumination.

(3) All IOC equipment, including tables, shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable, and free of seams and difficult to clean areas.

(4) Warewashing is not permitted outside. All utensils/equipment used in outdoor cooking/serving of food shall be returned to the permitted retail food establishment for proper cleaning; except that, in-place cleaning may be allowed for grills and similar equipment.

(G) Handwashing Sinks.

If IOC exceeds four (4) times per calendar year, the following handwashing sink requirement shall be met:

(1) A permanently installed exterior handwashing sink shall be provided pursuant to 5-202.12, 5-203.11 and 5-204.11.

(2) If using a portable handwashing sink, it shall have a minimum five (5) gallon potable water-dispensing tank and a minimum seven-point five (7.5) gallon waste water holding tank.

(3) The handwashing sink shall be provided with soap and disposable paper towels.

(4) When a permanently installed exterior handwashing sink is not required, a container of water with a spigot, soap, disposable towels and a catch bucket shall be provided.

(5) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Authorization.

(1) No retail food establishment shall conduct IOC operations that does not have an authorization issued by the Department.

(2) Any retail food establishment that operates or proposes to conduct IOC operations must apply to the Department for an authorization thru the application process.

(3) Only a retail food establishment who complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such an authorization.

(4) Once IOC has been authorized, the retail food establishment shall notify the Department of any changes to the authorized IOC operation, such as, but not limited to, operations, procedures, menus, or changes in the retail food establishment in accordance with 8-304.11(B).

9-7 BARBECUE PIT AND PIT-COOKING ROOM CONSTRUCTION

This standard shall apply to the construction and operation of a barbeque pit or smokehouse room as part of a retail food establishment.

(A) Definition.

Barbecue is defined as a single process method of cooking by which meat, poultry, or fish (either whole or in pieces) is covered and slow cooked in a pit or on a spit using an indirect or direct heat source.

(B) General.

Barbecue pit rooms shall be located on the physical premises of the permitted retail food establishment.

(C) Employees.

(1) Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-service article storage, and utensil washing areas.

(D) Food.

(1) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(2) All food employees shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(3) Pit rooms shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated and

(b) Appropriate for the food density being checked.

(4) Adequate refrigeration shall be provided to support the cooking activity conducted in the pit room at the permitted retail food establishment.

(E) Pit-Cooking Room Restrictions.

(1) Pit-cooking rooms built according to these minimum construction requirements shall be restricted to barbecue cooking equipment and the single process of cooking.

(2) No additional food preparation or processing activities shall be permitted in the pit room unless there is full compliance with all construction requirements pursuant to Chapter 6 of this regulation.

(F) Construction.

(1) All sides and the ceiling of the pit room shall be completely enclosed.

(2) Screening may be used above wainscot height, four (4) feet on walls, and must be at least sixteen (16) mesh per inch.

(3) All outside openings shall be protected against insects by tight-fitting, self-closing doors, closed windows, screening, approved fly fans, or other means.

(4) Canvas flaps or other effective devices may be required to protect against blowing contamination.

(5) A large tight-fitting garage door may be allowed without a self-closer but shall remain closed during cooking operations.

(6) Floors of pit-cooking rooms, excluding pit floors, shall be constructed of smooth, durable materials such as sealed concrete, quarry tile, vinyl floor covering, or other approved material.

(7) Floors shall be maintained in good repair.

(8) Floors approved for water flushing, such as quarry tile or sealed concrete, shall be graded to floor drains and shall have junctures between walls and floors sealed.

(9) Interior walls shall have smooth, easily cleanable, and washable surfaces to at least wainscot height (4 feet).

(10) If screening is used above wainscot, studs and other exposed bracing shall be sealed or painted.

(11) Concrete blocks or other masonry products used for wall construction shall be trowelled, skim-coated, or receive sufficient coats of full strength block filler to render a smooth surface prior to the application of a washable paint.

(12) Ceilings shall be finished to provide a smooth, nonabsorbent, and easily cleanable surface.

(13) Trusses and rafters shall not be exposed.

(14) Ceiling joists shall be properly sealed.

(15) Pit-cooking rooms shall be ventilated and kept reasonably free of excessive heat, vapors, smoke, and fumes by ventilating the pit itself or by ventilating the room. Pit ventilation can be achieved by a chimney or duct using dampers, pit doors, or other devices to control airflow. Pit-cooking rooms may be ventilated by a cathedral ceiling with screened roof-ridge vents, mechanical exhaust fans, or other effective methods approved by the Department when pits are not directly vented to the outside.

(16) At least twenty (20) foot-candles of light shall be provided at all working surfaces, including the handwashing sink.

(G) Cooking Pit and Cooker Construction.

(1) Cooking pit floors may consist of a solid base of compacted clay with a top layer of clean sand to absorb grease drippings. Sand shall be replaced as necessary to maintain a safe and sanitary condition.

(2) Pit floors may also be constructed of concrete, firebrick, or other material that can be cleaned and maintained.

(3) Cooking pit walls (exterior sides only) shall be smooth, easily cleanable, and washable.

(4) Concrete blocks or other masonry products used for pit construction shall be trowelled, skim coated, or receive sufficient coats of full strength block filler applied to the exterior wall prior to the application of a washable paint.

(5) Pit grills, grates, and other supports shall be constructed of smooth, easily cleanable, nonabsorbent, non-toxic material, and shall be in sections that are easily removable for cleaning.

(6) Hog wire, chicken wire, hardware cloth, and similar materials, that are not galvanized or have welded joints, are permitted for single-use only and shall be discarded after each cooking period. Expanded metal and cast iron grating are recommended materials that can be cleaned and maintained.

(7) Pit covers shall be single-use or shall be constructed of a smooth, easily cleanable, nonabsorbent, and non-toxic material.

(8) The use of cookers and mobile cookers in lieu of a barbeque pit shall require the prior approval of the Department. These units shall be located in the pit room.

(H) Handwashing Sinks.

(1) Handwashing sinks shall be provided pursuant to 5-202.12, 5-203.11, and 5-204.11.

(2) The handwashing sink shall be provided with soap and disposable paper towels.

(3) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(I) Authorization.

(1) No retail food establishment shall operate a barbecue pit that does not have an authorization issued by the Department.

(2) Any retail food establishment that operates or proposes to operate a barbecue pit must apply to the Department for an authorization through the application process.

(3) The following additional documentation shall be submitted as part of the application process:

(a) Information about food prepared in the barbecue pit room and

(b) Any other information requested by the Department.

(4) Only a retail food establishment that complies with the requirements of this regulation and standard shall be entitled to receive and retain such an authorization.

(5) Once a barbecue pit has been authorized, the Department shall be notified of any changes to the barbecue pit, such as, but not limited to, operational changes, menu changes, or changes in the barbecue pit in accordance with 8-304.11(B).

9-8 TEMPORARY FOOD SERVICE ESTABLISHMENTS

This standard shall apply to the construction and operation of a temporary food establishment.

(A) Definitions.

A **temporary food service establishment** is defined as an establishment that may be authorized by the Department to operate at a fixed location for a period of time not to exceed fourteen (14) consecutive days in connection with a fair, carnival, circus, trade show, movie or filming location, golf or other national sporting events, and other transitory gatherings organized by the community. This standard also applies to retail food service establishments that operate in an area affected by a natural or man-made disaster and where a state of emergency or a public health emergency has been declared.

(B) General.

(1) Temporary food service establishments shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Employees.

(1) Food vendors and/or employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(4) All time/temperature for safety food cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under this regulation.

(5) Time/temperature for safety foods that have been cooked or are in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(6) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(7) Cakes, breads, and cookies that are not made at a permitted retail food establishment may be offered for sale only if they are not a time/temperature for safety food.

(8) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination. Ice used as a coolant for foods shall not be used for edible ice.

(9) Each temporary food service establishment shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(E) Service.

(1) During operations, food shall be stored, cooked, displayed, and served from the temporary food service establishment only.

(2) Customer self-service of unpackaged time/temperature control for safety foods is prohibited.

(3) Temporary food service establishments shall provide only single-service articles for use by the consumer.

(4) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(5) In use wiping cloths must be stored in clean solution of an approved sanitizer.

(6) A test kit that accurately measures the parts per million concentration of an approved sanitizer shall be accessible and used.

(7) Food shall be kept covered except during times of continuous serving or display.

(8) Covers or lids may be removed only for monitoring, stirring, or adding additional ingredients.

(F) Construction.

(1) Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material.

(2) Floors shall be kept clean and in good repair.

(3) Walls shall be constructed of a solid, easily cleanable material.

(4) Screening may be used above wainscot height, four (4) feet, on walls and must be at least sixteen (16) mesh per inch.

(5) Studs and joists may be exposed, provided they are sealed.

(6) Ceilings shall be constructed of a solid, easily cleanable material.

(7) Exposed ceiling joists and rafters may be allowed, provided they are sealed.

(8) Light bulbs and fluorescent tubes shall be shielded, coated, or otherwise shatter-resistant and provide at least twenty (20) foot candles of illumination.

(9) All outside openings shall be protected against insects by tight-fitting, self-closing doors, closed windows, screening, approved air curtains, or other means.

(10) Canvas flaps or other effective devices may be required to protect against blowing contamination where screening is used.

(11) Counterservice openings shall be equipped with approved air curtains, self-closing windows, or free-falling windows or screens that must be at least sixteen (16) mesh per inch. Where air curtains are used, the size of the openings shall be limited so that the fans effectively prevent the entrance of flying insects.

(12) A temporary food establishment shall be equipped with a warewashing sink with at least three (3) compartments large enough to accommodate two thirds of the largest utensil. This requirement shall not apply to temporary food establishments engaged only in the dispensing of prepackaged food.

(13) The warewashing sink shall be supplied with hot and cold water under pressure, equipped with a mixing faucet that is capable of servicing all sink compartments.

(14) Adequate refrigeration shall be provided.

(15) A temperature measuring device shall be provided for each refrigeration unit.

(16) Equipment shall be installed in a manner that allows it to be maintained in a sanitary condition.

(17) Ice and beverages may be dispensed in the serving area if protected from contamination. This area must be sheltered but is not required to be screened or enclosed.

(G) Handwashing Sinks.

(1) All temporary food service establishments shall have a separate handwashing sink, equipped with hot and cold water under pressure through a mixing valve or combination faucet.

(2) The handwashing sink shall be separated from food and food contact surfaces by either a splashguard or a distance of at least twelve (12) inches.

(3) Soap and disposable paper towels must be provided and be adjacent to the handwashing sink.

(4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system, the temporary food service establishment shall be equipped with an approved backflow prevention device.

(4) Connections to the drinking water and sewage tanks shall be different types or sizes to eliminate contamination of the drinking water supply.

(5) Sewage and drinking water hose connections shall not be interchangeable.

(6) Water heaters with sufficient capacity shall be provided in facilities that prepare and serve time/temperature for safety food.

(I) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers adequate in number and capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(4) Adequate and approved toilet facilities shall be provided.

(5) Adequate trash cans and other sanitary facilities, as deemed necessary by the Department, shall be provided to support the temporary food service establishments operating at the event.

(J) Specific Exemptions.

(1) Temporary food service establishments are exempt from the requirements for training certification in 2-102.12(B).

(2) Temporary food service establishments that provide foods pursuant to 8-301.12(A)(11),(12),(19) and (20) of this regulation are exempt from the requirements of this standard.

(K) Authorization.

(1) No person, retail food establishment, or mobile food unit may serve time/temperature for safety food at a temporary food service establishment unless the sponsoring entity obtains authorization from the Department.

(2) The sponsoring entity of an event where temporary food service establishments will operate shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate an event where temporary food service establishments will operate shall apply for authorization on the form provided by the Department prior to commencement of the event. The following information shall be submitted with the application:

(a) Event Coordinator name and contact information;

(b) The dates of the fourteen (14) consecutive days of operation;

(c) A list of temporary food service establishments, with contact information, that will operate at the event; and

(d) The time that all temporary food service establishments are required to be ready for operation.

(4) Each temporary food service establishment shall be authorized by the Department prior to serving food to the public at the event.

(5) The Department may require a sponsoring entity or a temporary food service establishment to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the fair, carnival, circus, or organized event, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) All food vendors shall meet the requirements for temporary food service establishment.

(7) Food vendors shall not be allowed to operate under the requirements of Sections 9-9, *Community Festivals*, 9-10, *Special Promotions*, or 9-11, *Retail Food Establishment – South Carolina Farmers Markets, Seasonal Series, and Remote Service*, of this regulation.

(8) When the Department determines that a sponsoring entity or a temporary food service establishment has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all temporary food service establishments to cease operations until the violations are corrected as determined by the Department.

(9) Any temporary food service establishment that proposes to operate at one event and location for more than fourteen (14) days, either by remaining in operation for additional consecutive days, or by reopening after a short period of closure, shall comply with the requirements for, and be permitted as, a retail food establishment or a mobile food establishment.

(10) If a retail food service establishment is operating as a temporary food service establishment in an area affected by a natural or man-made disaster after a state of emergency or a public health emergency has been declared, it may be allowed to exceed fourteen (14) consecutive days of operation if approved by the Department.

9-9 COMMUNITY FESTIVALS

This standard shall apply to the service of food and the requirements of food vendors at community festivals.

(A) Definitions.

Community festivals are defined as events sponsored by a community group, city/county/state organization, as a community celebration, that are generally theme related, and have multiple food vendors recruited to provide food to the public for a time period not to exceed three (3) consecutive days or no more than seventy-two (72) continuous hours. Each community festival is unique and will not be held more frequently than annually, although a sponsoring organization or group might have multiple but differently themed community festivals in a year.

(B) General.

(1) Community festival food vendors shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Employees.

(1) Food vendor employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensils, single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items must be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods, such as raw meat products, shall be ready to be cooked.

(5) All time/temperature for safety food fully prepared or cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under the regulation.

(6) Only quantities of meat, such as barbecue, may be pulled, chopped, or cut for same day service in the food vendor's preparation area.

(7) No mechanical chopping equipment will be allowed in unenclosed preparation areas.

(8) Time/temperature for safety foods that have been cooked or in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(9) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(10) Cakes, breads, and cookies that are not made at a permitted retail food establishment may be offered for sale only if they are not a time/temperature for safety food.

(11) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination. Ice used as a coolant for foods shall not be used for edible ice.

(12) Each community festival food vendor shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(13) Food shall be kept covered except during times of continuous serving or display.

(14) Covers or lids may be removed only for monitoring, stirring, or adding additional ingredients.

(E) Construction.

(1) Food preparation areas shall have overhead protection and adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.

(2) Equipment shall arrive clean and ready to use.

(3) Utensils and single use articles shall be clean, protected during storage, and in sufficient quantities to conduct the activity.

(F) Handwashing Sinks.

(1) When a handwashing sink is not available, a container of water with a spigot, soap, disposable towels, and a catch bucket shall be provided.

(2) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system, the hose shall be equipped with an approved backflow prevention device.

(H) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers with adequate capacity or adequate in number to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(4) Adequate toilet facilities shall be provided.

(5) Adequate trash cans and other sanitary facilities, as deemed necessary by the Department, shall be provided to support the community festival food vendors.

(**I) Specific Exemptions.**

(1) Community festival food vendors are exempt from the requirements for training certification in 2-102.20.

(2) Community festival food vendors that provide food pursuant to 8-301.12(A)(11),(12),(19) and (20) are exempt from the requirements of this standard.

(3) Hot water requirements are waived for food vendors at community festivals.

(J) Authorization.

(1) No person, retail food establishment, or mobile food unit may serve time/temperature control for safety food at a community festival unless the sponsoring entity obtains authorization from the Department.

(2) The sponsoring entity of a community festivals shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate a community festival where time/temperature for safety food will be served shall apply for authorization on the form provided by the Department prior to commencement of the festival. The following information must be submitted with the application:

(a) The Event Coordinator's name and contact information;

(b) The dates of the seventy-two (72) continuous hour period in which all food vendors will be in operation;

(c) A list of food vendors, with contact information, that will operate at the event; and

(d) The time that all food vendors are required to be ready for operation.

(4) Each community festival food vendor shall be authorized by the Department prior to serving food to the public at the festival.

(5) The Department may require a sponsoring entity or a food vendor to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the community group, city/county/state organization, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) When the Department determines that a sponsoring entity or a food vendor has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all food vendors to cease operations until the violations are corrected as determined by the Department.

9-10 SPECIAL PROMOTIONS

This standard shall apply to the service of food and the requirements of food vendors at special promotions.

(A) Special promotions are defined as events sponsored by businesses or city/county organizations that may be authorized by the Department to prepare and dispense food for the purpose of promoting a product or service. Preparation and dispensing food at special promotions are limited to one (1) day in duration at four (4) separate times per year. Special promotions do not include regularly occurring sporting events, such as, but not limited to, school ballgames.

(B) General.

(1) Food preparation and service areas shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety foods, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Employees.

(1) Food vendor employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items must be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods, such as raw meat products, shall be ready to be cooked.

(5) All time/temperature for safety food cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under this regulation.

(6) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(7) Cakes, breads, and cookies that are not made at a permitted retail food establishment may be offered for sale only if they are not a time/temperature for safety food.

(8) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination.

(9) Ice used as a coolant for foods shall not be used for edible ice.

(10) Each food vendor shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(E) Construction.

(1) Food preparation areas shall have overhead protection and adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.

(2) Equipment shall arrive clean and ready to use.

(3) Utensils and single-service articles shall be clean, protected during storage, and in sufficient quantities to conduct the activity.

(F) Handwashing Sinks.

(1) When a handwashing sink is not available, a container of water with a spigot, soap, disposable towels, and a catch bucket shall be provided.

(2) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system, the hose shall be equipped with an approved backflow prevention device.

(H) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers with adequate capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(I) Specific Exemptions.

(1) Special promotions are exempt from the requirements for training certification in 2-102.20.

(2) Special promotions that provide food pursuant to 8-301.12(A)(11),(12),(19) and (20)are exempt from the requirements of this standard.

(3) Hot water requirements are waived for special promotions.

(4) Toilet and service sink facilities are not required for special promotions.

(J) Authorization.

(1) The Department may require a sponsoring entity to submit information sufficient to determine if a special promotion complies with this standard and regulation. This information may include, but is not limited to, information defining the businesses, or city/county organizations, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(2) When the Department determines that a sponsoring entity has violated applicable provisions of this standard or regulation, the Department may issue a written order directing the special promotion to cease operations.

9-11 RETAIL FOOD ESTABLISHMENT – SOUTH CAROLINA FARMER'S MARKETS, SEASONAL SERIES, AND REMOTE SERVICE

This standard shall apply to the service of food and the requirements of food vendors participating in SC Farmers Markets, Seasonal Series, Remote Service Operations, or other events as approved by the Department.

(**A) Definitions.**

(1) **Community-based farmers market** means a market sponsored by a community or governmental organization either having been Certified by the South Carolina Department of Agriculture as a SC Certified Farmer's Market or a farmers market that meets the definition of the Farmers Market Coalition which states, "A farmers market operates multiple times per year and is organized for the purpose of facilitating personal connections that create mutual benefits for local farmers, shoppers, and communities and implements rule or guidelines of operation that ensure that the farmers market consists principally of farms selling directly to the public products that the farms have produced."

(2) **Seasonal series** means a regularly occurring event sponsored by a community or governmental organization for promoting local business, culture, or other local specialties.

(3) **Remote service operation** means a permitted retail food establishment providing food to individual consumers at an indoor location by food employees of the retail establishment who maintain control of the food service.

(B) General.

(1) Retail food establishments at a seasonal series or community-based farmers market or remote service site shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety foods and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) Permitted retail food establishments may be authorized by the Department to cook and serve food to the public at community farmers markets and/or seasonal series only two (2) days per week during one continuous period of time not to exceed six (6) hours.

(4) Community-based farmers market and seasonal series shall designate the days of the week food vendors are allowed to operate.

(5) Roadside produce stands and flea markets are not defined as community-based farmers markets or seasonal series, and this standard shall not apply to those locations.

(C) Employees.

(1) Retail food establishment employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensils and single-use article storage, and utensil washing areas.

(D) Food.

(1) Preparation of bulk food, including washing, slicing, peeling, and cutting, shall occur at the permitted retail food establishment.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold, and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods that have been cooked or are in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(5) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(6) Ice shall be obtained from an approved source, in closed single-service bags or approved covered containers and shall be protected from contamination.

(7) Ice used as a coolant for foods shall not be used for edible ice.

(8) Each retail food establishment shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Able to be calibrated; and

(b) Appropriate for the food density being checked.

(9) Food shall be kept covered except during times of continuous serving or display.

(10) Covers or lids shall not be removed other than for monitoring, stirring, or adding additional ingredients.

(E) Construction.

(1) Food preparation areas shall be provided with overhead protection and have adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.

(2) Equipment and utensils shall arrive clean, ready to use, and in sufficient quantities to conduct the activity.

(3) Equipment and utensils shall only be cleaned at the permitted retail food establishment.

(4) Only single-service articles shall be provided for use by the consumer.

(F) Handwashing Sinks.

(1) Each food vendor shall have at least one (1) handwashing facility located at the individual vendor location that may be either:

(a) A portable handsink that provides water under pressure or

(b) A container of water with a spigot and catch bucket.

(2) All handwashing facilities must have adequate water dispensing storage capacity to meet the demand for handwashing. The wastewater storage capacity must be larger than the water storage container.

(3) Handwashing facilities must include soap and disposable towels.

(4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water System.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system, the hose shall be equipped with an approved backflow prevention device.

(H) Sewage Retention and Refuse Removal.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers adequate in number and capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(4) Adequate toilet facilities shall be provided.

(5) Adequate trash cans, as deemed necessary by the Department, shall be provided to support the retail food establishment.

(I) Specific Exemptions.

Seasonal series or community-based farmers markets that provide foods pursuant to 8-301.12(A)(11),(12),(19) and (20) are exempt from authorization based on the requirements of this standard.

(J) Authorization.

(1) No retail food establishment, or mobile food unit may serve time/temperature control for safety foods at a seasonal series or community-based farmers market unless the sponsoring entity obtains authorization from the Department. Pre-approval is not required for remote service operations.

(2) The sponsoring entity of a seasonal series or community-based farmers market shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate a seasonal series or community-based farmers market where time/temperature control for safety foods will be served by retail food establishments shall apply for authorization from the Department. The following information shall be submitted:

(a) The Event Coordinator name and contact information;

(b) The one day of the week and hours of operation for food service; and

(c) A list of retail food establishments, with contact information, that will operate at the event.

(4) Each retail food establishment at a seasonal series or community-based farmers market shall be authorized by the Department prior to serving food to the public at the event.

(5) The Department may require a sponsoring entity or a retail food establishment to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the community group, governmental organization, SC Certified Farmer's Market certification, association to Farmers Market Coalition, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) When the Department determines that a sponsoring entity or a retail food establishment has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all retail food establishment vendors to cease operations until the violations are corrected as determined by the Department.

61-37. [Repealed].

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-25, Retail Food Establishments; and 61-37, Retail Food Establishment Inspection Fees.

Purpose: The Department repeals R.61-37, Retail Food Establishment Inspection Fees, in total and amends R.61-25, Retail Food Establishments, to incorporate revised fee schedules currently residing in R.61-37. Furthermore, the Department amends R.61-25 to meet the current standards of the 2017 United States Food and Drug Administration ("FDA") Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers a practical, scientifically-sound technical and legal basis for regulating the retail food establishment segment of the food industry by addressing the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. The amendments also include revisions to selected sections of R.61-25 to reflect the current business models of the food service industry and incorporate comments and suggestions from the regulated community. The amendments also include other changes as deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation. These changes include, but are not limited to, stylistic changes, updates to definitions and exemptions, corrections for clarity, readability, grammar, punctuation, references, codification, and overall improvement of the text of the regulation.

Legal Authority: 1976 Code Sections 44-1-140(2), 44-1-150, and 44-1-180.

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 amendment and repeal. 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/repeal and any associated information.

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

The amendments will allow the Department, through regulation, to meet the current standards of the 2017 United States Food and Drug Administration ("FDA") Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers practical, science-based guidance that addresses the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. It is amended every two (2) years and published in full every four (4) years via the Conference for Food Protection, a national conference of food safety regulators, food scientists, industry representatives, and members of academia.

The amendments also revise the regulation to reflect current business models within the food service industry not addressed by the FDA Food Code.

The amendments also incorporate an increase in inspection fees, which will provide necessary program support. The amendments merge R.61-37 into R.61-25 to provide the retail food industry with one streamlined regulation.

The amendments also include other changes as deemed necessary by the Department to improve the overall clarity, organization, and quality of the regulation.

DETERMINATION OF COSTS AND BENEFITS:

The amendments seek to benefit food safety in South Carolina and the health of South Carolina's citizens, as the intent of this regulation is to provide consumers with safe, unadulterated food and food products at the retail level. The amendment of R.61-25 will allow the regulation to conform to the current national standard set by the 2017 FDA Food Code. For the food service industry, including many establishments associated with national chains, the current edition of the FDA Food Code provides a needed uniformity and consistency with food safety rules nationally. Other changes to the regulation improve the overall clarity, organization, quality, and

consistency of the regulation, which benefits the public and regulated community by facilitating improved understanding and implementation of the regulation.

The increase in fees will benefit the Bureau of Environmental Health Services ("Bureau") and ease the burden on the general public by facilitating additional program support through increasing existing fees instead of requesting additional state taxpayer funding. The additional funds will generate more resources to fund Department development and provision of compliance assistance tools and training for the regulated community to support facilities in developing practical food safety systems for their operations.

The fee increase is based on the Bureau's review of comparable regional food safety programs and evaluation of program needs due to retail food service industry growth. Existing program fees were established in 2000 and have not increased since such time. The following fee changes will both ensure fees for South Carolina facilities remain in keeping with fees charged by other southeastern states and also generate much needed funds for the Bureau's permit and inspection programs. Under the amended regulation, the base annual inspection fee of sixty dollars ($60.00) will be increased to one hundred dollars ($100.00). The annual inspection fee increases by increments of fifty dollars ($50.00) per tier up to a maximum inspection fee of four hundred and fifty dollars ($450.00), as compared to increments of thirty dollars ($30.00) per tier up to a maximum inspection fee of two hundred and seventy dollars ($270.00) under the preexisting regulation. To meet the growing demands for service and inspection, the Department also is increasing the initial permitting fee to include a one-time fee of one hundred dollars ($100.00) in addition to the applicable tiered annual inspection fee. This increased fee will support the cost of conducting pre-operational and permit inspections.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of this regulation will not compromise the protection of the environment or the public health. The regulation will help to ensure that consumers are receiving safe, unadulterated food and food products at the retail level. The amendment of R.61-25 to conform to the most recent edition of the FDA Food Code also provides effective means of reducing the risks of foodborne illnesses within retail food establishments, thus protecting consumers and industry from potentially devastating public health consequences and financial losses.

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

There will be no adverse effect on the environment if the regulations are not implemented. Not implementing these regulations could have detrimental effect on public health. Not implementing these regulations will prevent the implementation of the latest sanitary standards and will impede the comprehensive approach to food safety management needed in addressing food protection in the retail food industry. This could have a detrimental effect on the health of South Carolina's citizens and visitors. Failure to provide the necessary fee funding for the program may result in a decrease in effectiveness of the food safety oversight program as the industry continues to expand in size. The lack of increased fee funding also reduces Department compliance assistance resources for the regulated industry.

Statement of Rationale:

These amendments provide the retail food industry the regulatory framework to meet the latest sanitation requirements for providing safe, unadulterated food and food products to consumers. The FDA Food Code offers proven scientific reasons behind regulation and actively seeks input from the scientific and academic communities as their understanding of foodborne pathogens increases. The amendment of R.61-25 to conform to the most recent edition of the FDA Food Code provides a comprehensive approach to food safety

management, superior supporting documents and training, and is consistent with the national integrated food safety management system. Furthermore, the R.61-25 amendments and R.61-37 repeal provide the retail food industry with one streamlined regulation while allowing for necessary program support through an increase in inspection fees. Other revisions are intended to better reflect current business models within the food service industry. Other changes to the regulation improve the overall clarity, organization, and quality, of the regulation.

Document No. 4837
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-29-40

61-120. South Carolina Immunization Registry.

Synopsis:

The Department of Health and Environmental Control ("Department") amends R.61-120 to enable the Department to provide specific Healthcare Effectiveness Data and Information Set ("HEDIS") data from the South Carolina Immunization Registry ("Registry") to health plans for public health purposes and to measure performance on important dimensions of care and service, including immunization data for clients. The amendments also detail the availability and use of a patient portal, which will be a feature of a new Registry allowing patients to access their personal immunization records. The amendments also remove obsolete language and make general improvements and clarifications to the text.

The Department had a Notice of Drafting published in the April 27, 2018, *South Carolina State Register*.

Changes made at the request of the House Regulations and Administrative Procedures
Committee by letter dated April 18, 2019:

Section D.4.p. was amended to allow health plans to receive immunization records of its enrolled members through the Revenue and Fiscal Affairs Office with a data sharing agreement in place.

Section-by-Section Discussion of Final Regulation submitted
By the Department of Health and Environmental Control on
January 8, 2019, for legislative review:

The Table of Contents is revised to reflect the changes in the text of the regulation.

Section C.1.a is revised to delete language pertaining to the implementation schedule of the Registry, which has already occurred, and to clarify the registration requirements for immunization providers. Section C.2.a is revised for punctuation. Section C.8 is revised to update a section reference.

Section D, Implementation Schedule, is deleted in its entirety.

Section E, Permitted Uses and Disclosure of Immunization Registry Information, is recodified to Section D, same title. Section D.4.c is revised to clarify that the Department may print a South Carolina Certificate of Immunization for a patient upon written request of the patient, parent or legal guardian. New Section D.4.d is added to allow a patient, parent or legal guardian to obtain a copy of the patient's immunization record through a Department authorized electronic patient portal. Section D.4.o (formerly D.4.n) is revised for punctuation and clarity. New Section D.4.p is added to provide an immunization record to health plans of its members and enrollees who received immunization during the time in which they were enrolled, which shall be used solely for public health and HEDIS purposes. The outline enumeration for this section has been revised accordingly.

Section E.3, previously Section F.3, is revised to update a section reference.

Instructions:

Due to numerous amendments, replace R.61-20, South Carolina Immunization Registry, in its entirety in the South Carolina Code of Regulations with this amendment**.**

Text:

61-120. South Carolina Immunization Registry.

Statutory Authority: 1976 Code Section 44-29-40

Table of Contents:

A. Purpose and Scope.
B. Definitions.
C. Registration and Reporting Requirements.
D. Permitted Uses and Disclosures of Immunization Registry Information.
E. Compliance and Enforcement.
F. Exceptions to Regulation.
G. Severability.

A. Purpose and Scope.

The purpose of this regulation is to provide rules, implementing Section 44-29-40 of the S.C. Code of Laws, 1976, as amended, regarding the South Carolina Immunization Registry requirements for reporting immunizations occurring in South Carolina, implementation and operation of the registry, data elements to be collected, content of electronic forms and reports, and the procedures for disclosure of confidential registry information. This regulation will apply to all healthcare providers who give immunizations in South Carolina. Nothing in this regulation shall be construed to affect statutory or common law principles governing the liabilities of health care providers for acts or omissions of their employees, agents, or contractors. Nothing in this regulation shall be construed to conflict with any state law or regulation governing immunizations or to alter, add to, or eliminate any requirement of state law or regulation regarding the administration of immunizations or to regulate the practice of any of the health care professions.

B. Definitions.

1. AUTHORIZED USER means an employee of an immunization provider who has been identified during the registration process as a user of the registry.

2. DEPARTMENT means the Department of Health and Environmental Control.

3. IMMUNIZATION PROVIDER means an individual health care provider licensed, certified, registered, or otherwise authorized by law to provide immunizations, and an organization, facility, or other entity that provides immunizations through such individual providers.

4. PATIENT means an individual who receives an immunization or other health care services.

5. REGISTRY means the data system for the collection, storage, and dissemination of information on immunizations administered in South Carolina established by the Department pursuant to Section 44-29-40.

C. Registration and Reporting Requirements.

1. Immunization providers shall register with the Department for access to the Registry.

a. All immunization providers shall register with the Department before administering any immunizations for which reporting is required under the implementation schedule in this regulation. This section governs only the registration requirement and is not intended to prohibit or restrict the administration of immunizations by any person authorized by law to do so.

b. Authorized users shall complete training under schedules established by the Department in a format determined by the Department. The Department will contact registered users to schedule and provide the training and other needed activities in order to use the registry. Immunization providers will not be responsible for completing the reporting requirements of this regulation until necessary training and set up have been completed by the Department.

c. An immunization provider that is a facility or business entity administering vaccines through employees, agents, or contractors may register in its own name, and the employees, agents, and contractors of such facilities or business entities need not register individually. An immunization provider that is a business entity with multiple locations may register once as a single provider for more than one location. Individual immunization providers who practice in a group or with a facility or business entity may register individually or in the name of the group or facility or business entity.

2. Each immunization provider shall identify one or more employees who will be authorized users of the registry on behalf of the immunization provider.

a. All authorized users shall maintain the confidentiality of their individual access codes and passwords for the immunization registry and shall not share or exchange such codes with any other person, regardless of whether or not that other person is an authorized user.

b. Each immunization provider and authorized user shall be individually responsible for complying with this regulation and the user agreement. The immunization provider shall be responsible, according to existing principles of agency law, for its authorized users' access to the registry and uses and disclosures of registry information, and compliance with this regulation and the user agreement.

c. Immunization providers and authorized users shall enter into and comply with user agreements specifying terms of use and confidentiality and other obligations. A breach of a user agreement is a violation of this regulation.

3. The immunization provider shall notify the Department within fifteen (15) business days after an authorized user is terminated or leaves employment for any reason. The immunization provider shall not be liable for applicable statutory penalties for its authorized users' post-employment violations of this regulation, if the immunization provider has notified the Department that the authorized user is no longer employed. This regulation shall not be construed to affect the immunization provider's liability to any third party for acts or omissions of its employee or other authorized user.

4. Immunization providers shall report all immunizations administered to the registry within ten (10) business days of administration. Immunizations shall be reported in a standard electronic format specified by the Department via the internet at a website specified by the Department, or via the South Carolina Health Information Exchange or other method specified by the Department. An immunization provider that is a facility or business entity administering vaccines through employees, agents, or contractors shall report immunizations administered by its employees, agents, and contractors.

5. For each immunization administered, immunization providers shall report, at a minimum, the date of immunization; specific type of vaccine given; first and last name, gender, and date of birth of the person

receiving the vaccine; and name of the registered immunization provider. The Department may require reporting of other data as needed to comply with federal requirements.

6. In the event of a state or federal declared disaster, state of emergency, or public health emergency, at the Department's discretion, immunization providers shall report to the Department information regarding administration or dispensing of certain drugs, medications, chemicals, vaccines, or biological products used in response to the declared disaster, state of emergency, or public health emergency.

7. Immunization providers in other states who administer immunizations in South Carolina must comply with the requirements of this regulation. Immunization providers who administer immunizations in other states to South Carolina residents are not required to register with or report immunizations administered out of state to the registry, but may register and report voluntarily. Out-of-state immunization providers who register voluntarily are subject to and must comply with the provisions of this regulation governing permitted uses and disclosures of registry information and compliance and enforcement as fully as if located in and administering immunizations in South Carolina.

8. Immunization providers who do not administer vaccines may register with the Department for access to the registry. Immunization providers who register under this paragraph and their authorized users are subject to and will comply with all provisions of this regulation applicable to immunization providers and authorized users and may access and use registry information under Section D.

D. Permitted Uses and Disclosures of Immunization Registry Information.

1. Information in the immunization registry is confidential and shall be made available only to registered immunization providers through their authorized users. Immunizations providers who have registered for access to the registry may obtain information from the registry pertaining only to their own patients.

2. Immunization providers may use registry information for the following purposes:

a. To provide care and treatment to their patients;

b. To determine appropriate and needed immunizations for their patients;

c. To generate reports to review their practice's coverage;

d. To generate reminder and recall notices;

e. To review their practice's immunizations for quality improvement purposes;

f. To print a patient's immunization record;

g. To print a South Carolina Certificate of Immunization for a patient for school and daycare attendance; and for

h. Other uses specifically authorized by the Department.

3. Immunization providers and authorized users may not disclose identifying information obtained from the registry except as allowed or required by applicable law.

4. The Department may use registry information for public health purposes, including, but not limited to, the following:

a. To determine appropriate and needed immunizations for patients;

b. To print a patient's immunization record at the request or with permission of an immunization provider;

c. To print a copy of an immunization record or a South Carolina Certificate of Immunization for a patient and at the written request of the patient, or a parent or legal guardian of the patient if the patient is under eighteen (18) years of age;

d. To allow a patient, or a parent or legal guardian of the patient if the patient is under eighteen (18) years of age, to obtain a copy of the patient's immunization record through a Department authorized electronic Patient Portal;

e. To investigate vaccine fraud;

f. To prevent, investigate, and control outbreaks of vaccine preventable communicable diseases;

g. To conduct epidemiological studies;

h. To provide data that does not identify an individual either directly or indirectly for research and only if the researcher submits a research protocol describing, at a minimum: the intended use of the data, the methodology of the research project; why access to the information is necessary, and approval by an official Institutional Review Board;

i. To assure the quality of the data entered into the registry;

j. To review the quality of the immunization practices of immunization providers;

k. To publish aggregate data that does not identify an individual either directly or indirectly;

l. When deemed necessary by the Director in the event of a disaster, state of emergency, or public health emergency;

m. To perform repairs, maintenance, and updates of the Immunization registry;

n. To provide information needed by law enforcement officers and agencies in the investigation or prosecution of a crime;

o. To implement this regulation, including compliance assistance and enforcement activities; and

p. To provide immunization records to the Revenue and Fiscal Affairs Office so that it may provide these records to health plans of members and enrollees of the health plan who received immunizations during the time in which they were enrolled in the health plan. Each immunization record may only be used by health plans for public health and Healthcare Effectiveness Data and Information Set (HEDIS) purposes. Health plans shall enter into a data sharing agreement with the Department and the Revenue and Fiscal Affairs Office prior to receiving immunization records.

5. Uses and disclosures by immunization providers or authorized users of registry information not authorized by this section are prohibited. Nothing in this regulation authorizes an immunization provider or authorized user to make any use or disclosure of registry information that is otherwise prohibited by law.

E. Compliance and Enforcement.

1. Immunization providers shall make immunization records available within a reasonable time to authorized representatives of the Department for inspection upon request.

2. For a violation of this regulation, the Department may:

a. Require an immunization provider or an authorized user to attend registry training;

b. Suspend or revoke access to the registry; or

c. Assess civil penalties as authorized by Section 44-1-150, S.C. Code of Laws, 1976, as amended.

3. A Department decision under Section E.2 may be appealed by an immunization provider or authorized user, pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.

F. Exceptions to Regulation.

1. The Department may grant a waiver to a requirement of this regulation, in its discretion when an immunization provider demonstrates to the Department's satisfaction that compliance would cause substantial hardship, that the waiver would protect and promote the health and safety of patients, and that the requirement is not specifically mandated by statute.

2. A delay in reporting caused by an act of God, war, strike, riot, or other catastrophe as to which negligence or willfulness on the part of the immunization provider was not the proximate cause will not be considered a violation of this regulation, as long as the immunization provider reports as required at the earliest practicable time after the event or catastrophe.

G. Severability.

If a court of competent jurisdiction rules any part of this regulation invalid or otherwise unenforceable, the remaining portions of this regulation shall remain in effect as if the invalid portions were not originally a part of this regulation.

Fiscal Impact Statement:

There are no anticipated additional costs to the state and its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-120, South Carolina Immunization Registry.

Purpose: The purpose of these amendments to R.61-120 is to enable the Department to provide specific HEDIS data from the Registry to health plans for public health purposes and to measure performance on important dimensions of care and service, including immunization data for clients. These amendments are also intended to provide details regarding the availability and use of a patient portal, which will be a feature of a new Registry allowing patients to access their personal immunization records. The amendments also remove obsolete language and make general improvements and clarifications to the text.

Legal Authority: 1976 Code Section 44-29-40.

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 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Department promulgated R.61-120 pursuant to Section 44-29-40 of the South Carolina Code of Laws, which requires the Department to establish a statewide immunization registry and promulgate regulations for its operation and implementation. The amendments to R.61-120 are needed in order to enable the provision of HEDIS data to health plans to be used for public health purposes, including analysis of immunization data for clients. Additionally, amendments allow patients to access their personal immunization records once the new Registry becomes active and without the need of going through one's healthcare provider. These amendments will benefit the public through greater analysis of immunization rates and coverage, as well as easier access to one's personal immunization record.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated costs to the state or its political subdivisions. The amendment establishing a patient portal for the Registry is expected to lessen the costs, both in time and money, associated with getting a copy of one's personal immunization record.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the amendments herein will not compromise the protection of the environment or public health. Provision of HEDIS data to health plans is expected to benefit public health through additional analysis of immunization coverage.

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. Failure to amend the regulation could negatively impact public health to the extent that the benefits of the amendments would not be realized.

Statement of Rationale:

The Department is amending R.61-120 to enable the Department to provide specific HEDIS data from the Registry to health plans for public health purposes and to measure performance on important dimensions of care and service, including immunization data for clients. Furthermore, the amendments detail the availability and use of a patient portal, which will be a feature of a new Registry allowing patients to access their personal immunization records. The amendments also remove obsolete language and make general improvements and clarifications to the text.

Document No. 4809
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-7-260

Synopsis:

The Department of Health and Environmental Control ("Department") has promulgated a new regulation to establish licensure and regulatory requirements for Crisis Stabilization Unit Facilities. These facilities provide a short-term residential program offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week.

The Department had a Notice of Drafting published in the May 26, 2017, *State Register*.

Section-by-Section Discussion of New Regulation

Regulation 61-125. Standards for Licensing Crisis Stabilization Unit Facilities.

Added the statutory authority for the regulation under the Title

TABLE OF CONTENTS

The table of contents was added.

Section 100. DEFINITIONS AND LICENSURE
Section 100 title was added for clarity and consistency.

Section 101. Definitions.
The definitions of 101.A Abuse, 101.B Administrator, 101.C Adult, 101.D Annual, 101.E Assessment, 101.F Authorized Healthcare Provider, 101.G Blood Assay for *Mycobacterium tuberculosis*, 101.H Contact Investigation, 101.I Controlled Substance, 101.J Consultation, 101.K Crisis Stabilization Unit Facility, 101.L Department, 101.M Designee, 101.N Direct Care Staff, 101.O Discharge, 101.P Dispensing Medication, 101.Q Elopement, 101.R Exploitation, 101.S Facility, 101.T Health Assessment, 101.U Incident, 101.V Individual Plan of Care, 101.W Inspection, 101.X Investigation, 101.Y Latent TB Infection, 101.Z Legend Drug, 101.AA License, 101.BB Licensed Nurse, 101.CC Licensee, 101.DD Medication, 101.EE Neglect, 101.FF Non-legend Drug, 101.GG Patient, 101.HH Physical Examination, 101.II Physician, 101.JJ Physician Assistant, 101.KK Quality Improvement Program, 101.LL Quarterly, 101.MM Restraint, 101.NN Revocation of License, 101.OO Screening, 101.PP Self-Administration, 101.QQ Staff Member, 101.RR Suspension of License, 101.SS Tuberculosis Risk Assessment, and 101.TT Volunteer were added.

Section 102. Licensure.
Section 102.A was added to require facilities to obtain a license before operating. Section 102.B was added to require compliance with applicable local, state, and federal laws, codes, and regulations. Section 102.C was added to delineate the licensed bed capacity requirements. Section 102.D was added to delineate the terms of licensure. Section 102.E prohibits facilities from utilizing the same name as another licensed facility. Section 102.F delineates the requirements for the license application. Section 102.G lists the documentation required for licensure. Section 102.H delineates the licensing fees. Section 102.I delineates fees for late renewals. Section 102.J delineates the process for license renewal. Section 102.K outlines the requirements for a change of license. Section 102.L delineates the requirements when there is a change of licensee. Section 102.M allows the Department to make exceptions where the Department determines the health, safety, and well-being of patients are not compromised, and provided the standard is not specifically required by statute.

Section 200. ENFORCEMENT OF REGULATIONS
Section 200 title was added for clarity and consistency.

Section 201. General.
Section 201 delineates the methods by which the Department may enforce this regulation.

Section 202. Inspections and Investigations.
Section 202 requires that inspections by the Department be conducted prior to initial licensing of a facility. Section 202 further states that the Department may charge a fee for plan inspections, construction inspections, and licensing inspections, in accordance with S.C. Code Section 44-7-260, and lists the applicable fees.

Section 203. Consultations.
Section 203 allows for consultations by the Department as requested by the facility or as deemed appropriate by the Department.

Section 300. ENFORCEMENT ACTIONS
Section 300 title was added for clarity and consistency.

Section 301. General.
Section 301 states that the Department may impose a monetary penalty, or deny, suspend, or revoke licensure for statutory or regulatory violations.

Section 302. Violation Classifications.
Section 302 delineates the classes of violations and outlines the monetary penalty schedule for violations.

Section 400. POLICIES AND PROCEDURES
Section 400 requires facilities to have written policies and procedures addressing the manner in which the requirements of this regulation shall be met. Section 400 further delineates the requirements of facility policies and procedures.

Section 500. STAFF AND TRAINING
Section 500 title was added for clarity and consistency.

Section 501. General.
Section 501 requires criminal background checks for staff members and volunteers, delineates required qualifications for staff members, and requires verification of licenses, credentials, experience, and competence of staff members.

Section 502. Administrator.
Section 502 delineates the requirements for the facility administrator.

Section 503. Staff.
Section 503 delineates the minimum required staffing levels for facilities and requires at least one (1) registered nurse on duty and present in the facility twenty-four (24) hours per day, seven (7) days per week.

Section 504. Inservice Training.
Section 504 delineates the required inservice training for staff.

Section 505. Job Orientation.
Section 505 requires that all new staff members and volunteers have documented orientation to the organization and environment of the facility and specific duties and responsibilities.

Section 506. Health Status.
Section 506 requires that all staff members have a health assessment within twelve (12) months prior to initial patient contact.

Section 600. REPORTING
Section 600 title was added for clarity and consistency.

Section 601. Incidents.
Section 601 delineates the requirements for reporting incidents occurring in the facility or on facility grounds, as well as requirements for other reportable conditions.

Section 602. Closure and Zero Census.
Section 602 delineates the reporting requirements for facility closure and requires facilities to notify the Department when there have been no patients in the facility for a period of ninety (90) days or more.

Section 700. PATIENT RECORDS
Section 700 title was added for clarity and consistency.

Section 701. Content.
Section 701 delineates the required documentation for patient records.

Section 702. Screening.
Section 702 requires facilities to have written protocols for screening individuals presenting for evaluation.

Section 703. Assessments.
Section 703 requires a nursing assessment for all persons admitted to the facility within twenty-four (24) hours of admission and requires the assessment to be performed by a registered nurse. Section 703 further requires an emotional and behavioral assessment for all persons admitted to the facility within twenty-four (24) hours of admission.

Section 704. Individual Plan of Care.
Section 704 requires that the individual plan of care be completed within twenty-four (24) hours of admission and delineates the requirements thereof.

Section 705. Record Maintenance.
Section 705 delineates the requirements for maintaining patient records and requires the facility to maintain patient records for at least six (6) years following discharge of the patient.

Section 800. ADMISSION AND RETENTION
Section 800 delineates the requirements for patient admission and specifies patients which are not appropriate for admission.

Section 900. PATIENT CARE AND SERVICES
Section 900 title was added for clarity and consistency.

Section 901. General.
Section 901 requires written informed consent between the patient and the facility and delineates the requirements of the written informed consent.

Section 902. Transportation.
Section 902 requires the facility to secure or provide transportation for patients when a physician's services are needed.

Section 903. Safety Precautions and Restraints.
Section 903 requires written policies and procedures for using seclusion or any form of restraint. Section 903 further delineates the requirements for utilizing seclusion and restraint.

Section 904. Discharge and Transfer.
Section 904 requires discharge planning to begin at the time of admission. Section 904 further delineates the requirements of the discharge summary.

Section 1000. RIGHTS AND ASSURANCES
Section 1000 requires the facility to comply with all current federal, state, and local laws and regulations concerning patient care, patient rights and protections, and privacy and disclosure requirements.

Section 1100. PATIENT PHYSICAL EXAMINATION
Section 1100 requires that all persons admitted to the facility be provided a physical examination within twenty-four (24) hours of admission. Section 1100 further requires that the physical examination be performed only by a physician or other authorized healthcare provider.

Section 1200. MEDICATION MANAGEMENT
Section 1200 title was added for clarity and consistency.

Section 1201. General.
Section 1201 requires that all medications be properly managed in accordance with federal, state, and local laws and regulations.

Section 1202. Medication and Treatment Orders.
Section 1202 delineates the requirements for medication and treatment orders.

Section 1203. Administering Medication and/or Treatments.
Section 1203 requires that medications be administered in accordance with orders from the attending physician or other individual legally authorized to prescribe medications and delineates the requirements for self-administration of medication.

Section 1204. Medication Containers.
Section 1204 delineates the requirements for labeling medication containers.

Section 1205. Medication Storage.
Section 1206 delineates the requirements for storing medications within the facility.

Section 1206. Disposition of Medications.
Section 1209 delineates the requirements for patient medications upon discharge from the facility.

Section 1300. MEAL SERVICE
Section 1300 title was added for clarity and consistency.

Section 1301. General.
Section 1301 requires that facilities preparing food on-site comply with Regulation 61-25, Retail Food Establishments. Section 1301 further requires that if a facility utilizes an outside source for meals, the outside source shall be graded by the Department, pursuant to R.61-25.

Section 1302. Meals and Special Diets.
Section 1302 requires the facility to offer a minimum of three (3) nutritionally-adequate meals in each twenty-four (24) hours period.

Section 1303. Diets.
Section 1303 delineates requirements when a facility accepts patients in need of medical-prescribed special diets.

Section 1304. Menus.
Section 1304 requires menus to be readily available and posted in one (1) or more conspicuous places in a public area.

Section 1305. Ice and Drinking Water.
Section 1305 requires the facility to utilize ice from a water system in compliance with Regulation 61-58, State Primary Drinking Water Regulations.

Section 1400. EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS
Section 1400 title was added for clarity and consistency.

Section 1401. Disaster Preparedness.
Section 1401 requires facilities to develop a written plan to be activated in the event of a disaster and/or emergency evacuation and delineates the requirements thereof.

Section 1402. Emergency Call Numbers.
Section 1402 requires the facility to post emergency call data in a conspicuous place and shall include phone numbers for fire and police departments, ambulance service, and the poison control center.

Section 1403. Continuity of Essential Services.
Section 1403 requires the facility to have a written plan to be implemented to ensure the continuation of essential patient support services during times of emergency or disaster.

Section 1500. FIRE PREVENTION
Section 1500 title was added for clarity and consistency.

Section 1501. Arrangements for Fire Department Response and Protection.
Section 1501 requires the facility to coordinate with local fire departments to ensure response during times of need.

Section 1502. Tests and Inspections.
Section 1502 requires that fire protection and suppression systems be maintained and tested in accordance with applicable building codes.

Section 1503. Fire Response Training.
Section 1503 delineates the minimum requirements for fire response training for facility staff.

Section 1504. Fire Drills.
Section 1504 requires the facility to conduct an unannounced fire drill at least quarterly for all shifts. Section 1504 further requires that all patients participate in fire drills.

Section 1600. MAINTENANCE
Section 1600 requires the facility to keep all equipment and building components in good repair and operating condition.

Section 1700. INFECTION CONTROL
Section 1700 title was added for clarity and consistency.

Section 1701. Staff Practices.
Section 1701 requires the facility to promote practices that shall prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances.

Section 1702. Tuberculosis Risk Assessment and Screening.
Section 1702 requires the facility to conduct an annual tuberculosis risk assessment in accordance with CDC guidelines and delineates the requirements thereof.

Section 1703. Housekeeping.
Section 1703 requires the facility to keep its grounds clean and free of vermin and offensive odors and delineates the requirements for interior and exterior housekeeping.

Section 1704. Infectious Waste.
Section 1704 requires that all infectious waste be disposed of in a manner compliant with OSHA standards and Regulation 61-105, Infectious Waste Management Regulations.

Section 1705. Clean and Soiled Linen and Clothing.
Section 1705 requires the facility to maintain a supply of clean, sanitary linen and clothing at all times. Section 1705 further delineates the requirements for soiled linen and clothing.

Section 1800. QUALITY IMPROVEMENT PROGRAM
Section 1800 requires the facility to implement a written quality improvement program and delineates the requirements thereof.

Section 1900. DESIGN AND CONSTRUCTION
Section 1900 title was added for clarity and consistency.

Section 1901. General.
Section 1901 requires that there be at least two hundred (200) square feet per licensed bed in facilities with ten (10) beds or less, and at least an additional one hundred (100) square feet per licensed bed in facilities with more than ten (10) beds.

Section 1902. Codes and Standards.
Section 1902 requires the facility to comply with codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

Section 1903. Submission of Plans.
Section 1903 delineates actions taken by the facility which necessitate submission of plans to the Department.

Section 1904. Inspections.
Section 1904 requires that all projects obtain all required permits from the locality having jurisdiction.

Section 2000. FIRE PROTECTION, PREVENTION, AND LIFE SAFETY
Section 2000 requires facilities with six (6) or more licensed beds to have a partial, manual, automatic, supervised fire alarm system.

Section 2100. GENERAL CONSTRUCTION REQUIREMENTS
Section 2100 title was added for clarity and consistency.

Section 2101. Floor Finishes.
Section 2101 requires that all floor coverings and finishes meet the requirements of the building codes.

Section 2102. Wall Finishes.
Section 2102 requires that wall finishes meet the requirements of the building codes.

Section 2103. Curtains and Draperies.
Section 2103 requires that window treatments in bathrooms and patient rooms be arranged in a manner to provide privacy.

Section 2104. Gases.
Section 2104 requires safety precautions when oxygen is being dispensed, administered, or stored. Section 2104 further requires that smoking only be allowed in designated areas in accordance with facility policy.

Section 2105. Furnishings and Equipment.
Section 2105 requires the facility to maintain the physical plant to be free of fire hazards or impediments to fire prevention and prohibits the use of portable electric or unvented fuel heaters.

Section 2200. EXITS
Section 2200 delineates the requirements for facility exits.

Section 2300. WATER SUPPLY AND HYGIENE
Section 2300 title was added for clarity and consistency.

Section 2301. Design and Construction.
Section 2301 delineates the plumbing requirements and required temperatures for hot water.

Section 2302. Cross-connections.
Section 2302 prohibits cross-connections in plumbing between safe and potentially unsafe water supplies.

Section 2400. ELECTRICAL
Section 2400 title was added for clarity and consistency.

Section 2401. Receptacles.
Section 2401 requires that each patient room have duplex grounding receptacles located to include one (1) at the head of each bed.

Section 2402. Ground Fault Protection.
Section 2402 requires a ground fault circuit-interrupter for all outside receptacles and bathrooms.

Section 2403. Exit Signs.
Section 2403 requires electrically-illuminated exit signs in facilities licensed for six (6) or more beds.

Section 2404. Emergency Electric Service.
Section 2404 delineates the requirements for emergency electric service to be utilized in times of power outages.

Section 2500. HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)
Section 2500 delineates the installation and maintenance requirements for the facility HVAC system.

Section 2600. PHYSICAL PLANT
Section 2600 title was added for clarity and consistency.

Section 2601. Facility Accommodations and Floor Area.
Section 2601 delineates the required minimum square footage requirements of the facility per licensed bed.

Section 2602. Patient Rooms.
Section 2602 delineates the minimum requirements for patient rooms. Section 2602 further prohibits more than three (3) beds per patient room.

Section 2603. Patient Room Floor Area.
Section 2603 requires one hundred (100) square feet for rooms with only one (1) patient, and eighty (80) square feet per patient in rooms with more than one (1) patient.

Section 2604. Bathrooms and Restrooms.
Section 2604 requires the facility to have one (1) toilet for each six (6) licensed beds or a fraction thereof, and further delineates the remaining requirements for bathrooms and restrooms.

Section 2605. Doors.
Section 2605 requires that bathroom, restroom, and patient room door widths be at least thirty-six (36) inches wide.

Section 2606. Ramps.
Section 2606 requires the facility to have at least one (1) exterior ramp accessible by all patients, staff members, volunteers, and visitors.

Section 2607. Screens.
Section 2607 requires that windows, doors, and openings intended for ventilation be provided with insect screens.

Section 2608. Windows and Mirrors.
Section 2608 delineates the requirements for windows and mirrors.

Section 2609. Janitor's Closet.
Section 2609 requires the facility to have a lockable janitor's closet equipped with a mop sink or receptor and space for the storage of supplies and equipment.

Section 2610. Storage Areas.
Section 2610 requires the facility to have general storage areas for patient, staff, and volunteer belongings, equipment, and supplies. Section 2610 further requires that storage buildings on the premises meet building codes requirements regarding distance from the licensed building.

Section 2611. Telephone Service.
Section 2611 requires at least one (1) telephone on each floor of the facility.

Section 2612. Location.
Section 2612 delineates the requirements for transportation routes to the facility, parking, and access to firefighting equipment.

Section 2613. Outdoor Area.
Section 2613 delineates certain areas which must be enclosed by a fence or natural barrier.

Section 2700. SEVERABILITY
Section 2700 was added to allow the regulation to remain valid should it be determined that a portion of the regulation be invalid or unenforceable.

Section 2800. GENERAL
Section 2800 was added to allow the Department to utilize best practices to manage any conditions not covered by these regulations.

Instructions:

Add new Regulation 61-125, Standards for Licensing Crisis Stabilization Unit Facilities, to Chapter 61 in the Code of Regulations.

Text:

61-125. Standards for Licensing Crisis Stabilization Unit Facilities.

Statutory Authority: 1976 Code Section 44-7-260

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SECTION 100 – DEFINITIONS AND LICENSURE

101. Definitions.

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

A. Abuse. Physical abuse or psychological abuse.

1. Physical Abuse. The act of intentionally inflicting or allowing infliction of physical injury on a patient by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that of a therapeutic procedure prescribed by a licensed physician or other legally authorized healthcare professional. Physical abuse does not include altercations or acts of assault between patients.

2. Psychological Abuse. The deliberate use of any oral, written, or gestured language or depiction that includes disparaging or derogatory terms to a patient or within the patient's hearing distance, regardless of the patient's age, ability to comprehend, or disability, including threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

B. Administrator. The staff member designated by the licensee to have the authority and responsibility to manage the facility, and is in charge of all functions and activities of the facility.

C. Adult. A person eighteen (18) years of age or older.

D. Annual. A time period that requires an activity to be performed at least every twelve to thirteen (12 to 13) months.

E. Assessment. A procedure for determining the nature and extent of the problems and needs of a patient or potential patient to ascertain if the facility can adequately address those problems, meet those needs, and to secure information for use in the development of the individual plan of care ("IPC").

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

G. Blood Assay for *Mycobacterium tuberculosis* ("BAMT"). A general term to refer to *in vitro* diagnostic tests that assess for the presence of tuberculosis ("TB") infection with *M. tuberculosis*. This term includes, but is not limited to, IFN-γ release assays ("IGRA").

H. Contact Investigation. Procedures that occur when a case of infectious TB is identified, including finding persons (contacts) exposed to the case, testing and evaluation of contacts to identify Latent TB Infection ("LTBI") or TB disease, and treatment of these persons, as indicated.

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

J. Consultation. A visit by Department representatives who will provide information to the licensee with the goal of facilitating compliance with these regulations.

K. Crisis Stabilization Unit Facility ("CSU"). A facility, other than a health care facility, operated by the Department of Mental Health, or operated in partnership with the Department of Mental Health that provides a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week.

L. Department. The S.C. Department of Health and Environmental Control ("DHEC").

M. Designee. A staff member designated by the administrator to act on his or her behalf.

N. Direct Care Staff. Those individuals who are employees (full- and part-time) of the facility who provide direct treatment, care, and services to patients, and those individuals contracted to provide treatment, care, and services to patients.

O. Discharge. The point at which treatment, care, and services in a facility are terminated and the facility no longer maintains active responsibility for the treatment, care, and services of the patient.

P. Dispensing Medication. The transfer of possession of one (1) or more doses of a medication or device by a licensed pharmacist or individual as permitted by law, to the ultimate user or his or her agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by a patient.

Q. Elopement. An instance when a patient who is physically, mentally, or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves the CSU unsupervised or unnoticed.

R. Exploitation. 1) Causing or requiring a patient to engage in an activity or labor that is improper, unlawful, or against the reasonable and rational wishes of a patient. Exploitation does not include requiring a patient to participate in an activity or labor that is a part of a written individual plan of care or prescribed or authorized by the patient's attending physician; 2) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a patient by an individual for the profit or advantage of that individual or another individual; or 3) causing a patient to purchase goods or services for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the patient through cunning arts or devices that delude the patient and cause him or her to lose money or other property.

S. Facility. A Crisis Stabilization Unit Facility licensed by the Department.

T. 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 protocol approved by a physician's signature. The standing orders and protocol shall be reviewed annually by the physician, with a copy maintained at the facility.

U. Incident. An unusual unexpected adverse event in the facility or on facility grounds, including any accidents, that could potentially cause harm, injury, or death to patients or staff members.

V. Individual Plan of Care ("IPC"). A documented regimen of appropriate care and services or written action plan prepared by the facility for each patient based on the patient's needs and preferences to be implemented for the benefit of the patient.

W. Inspection. A visit by Department representatives for the purpose of determining compliance with this regulation.

X. Investigation. A visit by Department representatives to a licensed or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to statutory and regulatory compliance.

Y. Latent TB Infection ("LTBI"). Infection with *M. tuberculosis*. Persons with Latent TB Infection carry the organism that causes TB but do not have TB disease, are asymptomatic, and are noninfectious. Such persons usually have a positive reaction to the tuberculin skin test and/or positive BAMT.

Z. Legend Drug.

1. A drug when, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

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

b. "Rx only" or;

2. A drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

3. Any drug products considered to be a public health threat, after notice and public hearing as designated by the S.C. Board of Pharmacy; or

4. Any prescribed compounded prescription drug within the meaning of the S.C. Pharmacy Practice Act.

AA. License. The authorization to operate a facility as defined in this regulation and as evidenced by a current certificate issued by the Department to a facility.

BB. Licensed Nurse. A person to whom the S.C. Board of Nursing has issued a license as a registered nurse or licensed practical nurse or an individual licensed as a registered nurse or licensed practical nurse who resides in another state that has been granted multi-state licensing privileges by the S.C. Board of Nursing 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.

CC. Licensee. The individual, corporation, organization, or public entity that has received a license to provide care and services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.

DD. Medication. A substance that has therapeutic effects, including, but not limited to, legend, non-legend, herbal products, over-the counter, nonprescription, vitamins, and nutritional supplements.

EE. Neglect. The failure or omission of a direct care staff member to provide the care, goods, or services necessary to maintain the health or safety of a patient including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Failure to provide adequate supervision resulting in harm to patients, including altercations or acts of assault between patients, may constitute neglect. Neglect may be repeated conduct or a single incident that has produced or could result in physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect.

FF. Non-legend Drug. A drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with state and federal law.

GG. Patient. Any individual, other than staff members, volunteers or owners and their family members, who resides in a facility.

HH. Physical Examination. An examination of a patient by a physician or other authorized healthcare provider that meets the requirements set forth in Section 1100 of this regulation.

II. Physician. An individual currently licensed to practice medicine by the S.C. Board of Medical Examiners.

JJ. Physician Assistant. An individual currently licensed as such by the S.C. Board of Medical Examiners.

KK. Quality Improvement Program. The process used by a facility to examine its methods and practices of providing care and services, identify the ways to improve its performance, and take actions that result in higher quality of care and services for the facility's patients.

LL. Quarterly. A time period that requires an activity to be performed at least four (4) times a year within intervals ranging from eighty-one to ninety-nine (81 to 99) days.

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

NN. Revocation of License. An action by the Department to cancel or annul a facility license by recalling, withdrawing, or rescinding the facility's authority to operate.

OO. Screening. The process by which the facility, prior to admission, determines a prospective patient requires the level of services and active treatment provided by the CSU.

PP. Self-Administration. A procedure by which any medication is taken orally, injected, inserted, or topically or otherwise administered by a patient to himself or herself without prompting. The procedure is performed without assistance and includes removing an individual dose from a previously dispensed and labeled container (including a unit dose container), verifying it with the directions on the label, taking it orally, injecting, inserting, or applying topically or otherwise administering the medication.

QQ. Staff Member. An adult, to include the administrator, who is a compensated employee of the facility on either a full- or part-time basis, including those in partnership or contracted with the S.C. Department of Mental Health ("SCDMH").

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

SS. Tuberculosis Risk Assessment**.** An initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* ("TB") in a particular healthcare setting. To perform a risk assessment, the following factors shall be considered: the community rate of TB, number of TB patients encountered in the setting, and the speed with which patients with TB disease are suspected, isolated, and evaluated. The TB risk assessment determines the types of administrative and environmental controls and respiratory protection needed for a setting.

TT. Volunteer. An individual who performs a task at the facility at the direction of the administrator or his or her designee without compensation.

102. Licensure. (II)

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise or market) as a crisis stabilization unit facility in South Carolina without first obtaining a license from the Department. The facility shall not admit patients prior to the effective date of the license. When it has been determined by the Department that treatment, care, or services are being provided at a location, and the owner has not been issued a license from the Department to provide such treatment, care, and services the owner shall cease operation immediately and ensure the safety, health, and well-being of the patients. Current or previous violations of the S.C. Code or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility, or addition to an existing facility which is owned and/or operated by the licensee. The facility shall provide only the treatment, care, and services it is licensed to provide pursuant to the definition in Section 101.L of this regulation. (I)

B. Compliance. An initial license shall not be issued to a proposed facility until the licensee has demonstrated to the Department that the proposed facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or increase in licensed bed capacity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or amended license to the existing facility. A copy of the licensing standards shall be maintained at the facility and accessible to all staff members and volunteers. Facilities shall comply with applicable local, State, and Federal laws, codes, and regulations.

C. Licensed Bed Capacity. No facility that has been authorized to provide a set number of licensed beds, as identified on the face of the license, shall exceed the bed capacity. No facility shall establish new care or services

or occupy additional beds or renovated space without first obtaining authorization from the Department. Licensed beds shall not be utilized by any individuals other than facility patients.

D. Issuance and Terms of License.

1. The license issued by the Department shall be posted in a conspicuous place in a public area within the facility.

2. The issuance of a license does not guarantee adequacy of individual care, services, personal safety, fire safety, or the well-being of any patient or occupant of a facility.

3. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this state.

4. A license shall be effective for a specified facility, at a specific location, for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status.

5. Facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, shall not be considered as dividing otherwise adjoining or contiguous property. For facilities owned by the same entity, separate licenses are not required for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

6. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.

E. Facility Name. No proposed facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in South Carolina.

F. Application. Applicants for a license shall submit to the Department a complete and accurate application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application shall include both the applicant's oath assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; by two (2) officers if a corporation; or by the head of the governmental department having jurisdiction if a governmental unit. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his or her address is different from that of the facility, and the names of the persons in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with these regulations. Corporations or limited partnerships, limited liability companies or any other organized business entity shall be registered with the S.C. Secretary of State's Office if required to do so by state law. (II)

G. Required Documentation. The application for initial licensure shall include:

1. Completed application;

2. Proof of ownership of real property in which the facility is located, or a rental or lease agreement allowing the licensee to occupy the real property in which the facility is located;

3. Proof the facility is operated by the SCDMH or operated in partnership with the SCDMH;

4. Business license (where applicable);

5. Zoning letter (where applicable);

6. Verification of emergency evacuation plan (see Section 1400); and

7. Verification of administrator's qualifications.

H. Licensing Fees. Each applicant shall pay a license fee prior to the issuance of a license. The annual license fee shall be ten dollars ($10.00) per licensed bed or seventy-five dollars ($75.00), whichever is greater. Annual licensing fees shall also include any outstanding inspection fees. All fees are non-refundable, shall be made payable by check or credit card to the Department or online, and shall be submitted with the application. (II)

I. Licensing Late Fee. Failure to submit a renewal application and fee to the Department by the license expiration date shall result in a late fee of seventy-five dollars ($75.00) or twenty-five percent (25%) of the licensing fee amount, whichever is greater, in addition to the licensing fee. Failure to submit the licensing fee and licensing late fee to the Department within thirty (30) days of the license expiration date shall render the facility unlicensed. (II)

J. License Renewal. For a license to be renewed, applicants shall file an application with the Department, shall pay the license fee, and shall not have pending enforcement actions by the Department. If the license renewal is delayed due to enforcement actions, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department, or when the adjudicatory process is completed, whichever is applicable. Annual license fees shall also include any outstanding inspection fees.

K. Amended License. A facility shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

1. Change of licensed bed capacity;

2. Change of facility location from one geographic site to another; or

3. Changes in facility name or address (as notified by the post office).

L. Change of Licensee. A facility shall request issuance of a new license by application to the Department prior to any of the following circumstances:

1. A change in the controlling interest even if, in the case of a corporation or partnership, the legal entity retains its identity and name; or

2. A change of the legal entity, for example, sole proprietorship to or from a corporation, partnership to or from a corporation, even if the controlling interest does not change.

M. Exceptions to Licensing Standards. The Department has the authority to make exceptions to these standards where the Department determines the health, safety, and well-being of the patients are not compromised, and provided the standard is not specifically required by statute.

SECTION 200 – ENFORCEMENT OF REGULATIONS

201. General.

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

202. Inspections and Investigations.

A. Inspections by the Department shall be conducted prior to initial licensing of a facility and subsequent inspections conducted as deemed appropriate by the Department. (I)

B. All facilities are subject to inspection and investigation at any time without prior notice by individuals authorized by South Carolina Code of Laws. When staff members and patients are absent, the facility shall post information at the entrance of the facility to those seeking legitimate access to the facility, including visitors. The posted information shall include contact information and the expected time of return of the staff members and patients. The contact information shall include the name of a designated contact and his or her telephone number. The telephone number for the designated contact shall not be the facility's telephone number. (I)

C. Individuals authorized by South Carolina law shall be allowed to enter the facility for the purpose of inspection and/or investigation and granted access to all properties and areas, objects, requested records, and documentation at the time of the inspection or investigation. The Department shall have the authority to require the facility to make photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. Physical area of Department inspections and investigations shall be determined by the Department based on the potential impact or effect upon patients. (I)

D. When there is noncompliance with the licensing standards, the facility shall submit an acceptable plan of correction in a format determined by the Department. The plan of correction shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;

2. The actions taken to prevent recurrences (actual and similar); and

3. The actual or expected completion dates of those actions.

E. In accordance with S.C. Code Section 44-7-270, the Department may charge a fee for inspections. The fee for initial and routine inspections shall be seventy-five dollars ($75.00) plus five dollars ($5,00) per licensed bed. The fee for a bed increase is ten dollars ($10.00) per licensed bed. The fee for follow-up inspections shall be sixty dollars ($60.00) plus five dollars ($5.00) per licensed bed.

F. The licensee shall pay the following inspection fees during the construction phase of the project. The plan inspection fee is based on the total estimated cost of the project whether new construction, an addition, or a renovation. The fees are detailed in the table below.

Construction Inspection Fees	
Plan Inspection	
Total Project Cost	**Fee**
< $10,001	$750
$10,001 - $100,000	$1,500
$100,001 - $500,000	$2,000
> $500,000	$2,500 plus $100 for each additional $100,000 in project cost
Site Inspection	
50% Inspection	$500
80% Inspection	$500
100% Inspection	$500

203. Consultations.

Consultations may be provided by the Department as requested by the facility or as deemed appropriate by the Department.

SECTION 300 – ENFORCEMENT ACTIONS

301. General.

When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such facility, the Department, upon proper notice to the licensee, may deny, suspend, or revoke licenses, or assess a monetary penalty, or both.

302. Violation Classifications.

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that present an imminent danger to the health, safety, or well-being of the persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time shall be considered a subsequent violation.

D. The notations "(I)" or "(II)", placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Failure to meet standards not so annotated are considered Class III violations.

E. In determining an enforcement action the Department shall consider the following factors:

1. Specific conditions and their impact or potential impact on health, safety or well-being of the patients including, but not limited to: deficiencies in medication management; critical waste water problems; housekeeping, maintenance, or fire and life safety-related problems that pose a health threat to the patients; power, water, gas, or other utility and/or service outages; patients exposed to air temperature extremes that jeopardize their health; unsafe condition of the building or structure; indictment of an administrator for malfeasance or a felony, which by its nature indicates a threat to the patients; direct evidence of abuse, neglect, or exploitation; lack of food or evidence that the patients are not being fed properly; no staff available at the facility with patients present; unsafe procedures and/or treatment being practiced by staff; (I)

2. Repeated failure of the licensee or facility to pay assessed charges for utilities and/or services resulting in repeated or ongoing threats to terminate the contracted utilities and/or services; (II)

3. Efforts by the facility to correct cited violations;

4. Overall conditions of the facility;

5. History of compliance; and

6. Any other pertinent conditions that may be applicable to current statutes and regulations.

F. When imposing a monetary penalty, the Department may invoke S.C. Code Section 44-7-320(C) to determine the dollar amount or may utilize the following schedule:

FREQUENCY OF VIOLATION	CLASS I	CLASS II	CLASS III
1st	$500-1,500	$300-800	$100-300
2nd	1000-3000	500-1500	300-800
3rd	2000-5000	1000-3000	500-1500
4th	5000	2000-5000	1000-3000
5th	5000	5000	2000-5000
6th	5000	5000	5000

SECTION 400 – POLICIES AND PROCEDURES

A. The facility shall maintain written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The written policies and procedures shall be implemented and reflect current facility practice regarding care, treatment, procedures, services, record keeping and reporting, admission and transfer, physician services, nursing services, social services, patient rights and assurances, medication management, pharmaceutical services, meal service operations, emergency procedures, fire prevention, maintenance, housekeeping and infection control, operation of the facility, and other special care and procedures as identified in this section. The policies and procedures shall address the provision of any special care offered by the facility that would include how the facility shall meet the specialized needs of the affected patients. The facility shall have written policies and procedures to address patient exit-seeking and elopement, including prevention and actions to be taken in the event of occurrence, and to control the use and application of physical restraints and all facility practices that meet the definition of a restraint. (II)

B. All policies and procedures shall be accessible to facility staff, printed or electronically, at all times.

C. The facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented and signed by the administrator.

SECTION 500 – STAFF AND TRAINING

501. General. (II)

A. Before being employed or contracted as a staff member or volunteer, a direct caregiver shall undergo a criminal background check pursuant to S.C. Code Section 44-7-2910. Staff members and volunteers of the facility shall not have a prior conviction or pled no contest (nolo contendere) to unlawful conduct toward a child, as defined by S.C. Code Section 63-45-70; abuse, neglect, or exploitation of a vulnerable adult, as defined by S.C. Code Sections 43-35-10, et seq.; or any similar criminal offense. (I)

B. The facility shall define in writing the responsibilities, qualifications, and competencies of staff for all positions. The facility shall ensure that the type and number of staff are:

1. Properly licensed or credentialed in the professional field as required for assigned job duties;

2. Present in numbers to provide services, support, care, and treatment to individuals as required; and

3. Trained as necessary to perform the duties for which they are responsible in an effective manner.

C. Staff members shall have at least the following qualifications: (I)

1. Capable of rendering care and services to patients; and

2. Capable of following applicable regulations.

D. The facility shall maintain current information regarding all staff members, to include:

1. Name, address, and telephone number;

2. Date of hire and date of initial patient contact;

3. Past employment, experience, and education;

4. Professional licensure or credentials; and

5. Job description signed by the staff member.

E. When a facility engages a source other than the facility to provide services normally provided by the facility, there shall be a written agreement with the source describing how and when the services are to be provided, the exact services to be provided, and that these services are to be provided by qualified individuals. The source shall comply with this regulation in regard to patient treatment, care, and services.

502. Administrator. (II)

A. Each facility shall have a full-time administrator who is responsible for the overall management and operation of the facility and has at least a bachelor's degree in the human services field or nursing.

B. A staff member shall be designated in writing to act in the absence of the administrator, such as, a listing of the lines of authority by position title, including the names of the persons filling these positions.

C. The facility shall notify the Department in writing within seventy-two (72) hours of any change in administrator status and shall provide the Department the name of the newly-appointed administrator, the

effective date of the appointment, and the hours each day the individual will be working as the administrator of the facility.

503. Staff. (I)

A. There shall be at least one (1) registered nurse immediately accessible by phone and available to be in the facility within thirty (30) minutes at all times patients are present in the facility.

B. There shall be at least one (1) staff member on duty for each eight (8) patients or a fraction thereof. All staff members on duty shall be awake and dressed at all times. Staff members shall be able to appropriately respond to patient needs.

C. In a facility with multiple floors or buildings, there shall be a staff member available on each floor and/or building at all times patients are present on that floor or in that building.

504. Inservice Training. (I)

A. All staff and volunteers in the facility shall complete the required SCDMH training in accordance with specific duties and responsibilities outlined in their job description. Training shall be documented in a staff or volunteer record and maintained at the facility.

B. The documentation of all inservice training shall include topic, training source, duration, and shall be signed and dated by the trainer and trainee. A signature by the trainee and the individual providing the training may be omitted for computer-based training. Training shall be provided by qualified persons and electronic media to all staff members and volunteers in the context of their job duties. All required training shall be completed prior to patient contact and at a frequency determined by the SCDMH, but at least annually unless otherwise specified by certificate, for example, cardiopulmonary resuscitation. Training for each staff and volunteer of the facility whose responsibilities include direct patient care shall include:

1. Basic first-aid to include emergency procedures as well as procedures to manage and care for minor accidents and injuries (non-nursing staff only);

2. Management and care of persons with contagious and/or communicable disease (non-nursing staff only);

3. OSHA standards regarding bloodborne pathogens;

4. Medication management including storage, interactions, and adverse reactions (as applicable to job duties);

5. Assessment and prevention of suicide;

6. Crisis interventions and treatment;

7. Patient rights and grievance procedures;

8. Confidentiality of patient information and records;

9. Abuse, neglect, and exploitation;

10. Elopement;

11. Use of restraint techniques that promote patient safety, including alternatives to physical restraints, in accordance with the provisions of Section 903;

12. Fire response training within twenty-four (24) hours of their first day on the job in the facility (see Section 1503); and

13. Emergency procedures and disaster preparedness to address various types of potential disasters within twenty-four (24) hours of initial patient contact (see Section 1400).

505. Job Orientation.

All staff members and volunteers shall have documented orientation to the purpose and environment of the facility within twenty-four (24) hours of their first day on the job in the facility. (I)

506. Health Status. (I)

A. All staff members and volunteers who have contact with patients, including food service staff and volunteers, shall have a documented health assessment within twelve (12) months prior to initial patient contact. The health assessment shall include tuberculin skin testing as described in Section 1702.

B. If a staff member or volunteer is working at multiple facilities operated by the same licensee, copies of the documented health assessment shall be accessible at each facility. For any other staff member or volunteer, a copy of the tuberculin skin testing shall be acceptable provided the test had been completed within three (3) months prior to patient contact.

SECTION 600 – REPORTING

601. Incidents.

A. The facility shall document every incident, and include an incident review, investigation or evaluation, as well as corrective action taken, if any. The facility shall retain all documented incidents reported pursuant to this section for six (6) years after the patient involved is last discharged.

B. The facility shall report the following types of incidents to the Department within twenty-four (24) hours of the incident on the Department's electronic reporting system or as otherwise determined by the Department. In addition to reporting to the Department, the facility shall immediately, within twenty-four (24) hours, notify the attending physician and emergency contact of patients or staff injured or affected by one of the following incidents, and shall immediately, within twenty-four (24) hours, notify local law enforcement of a patient elopement. Incidents requiring immediate, within twenty-four (24) hours, reporting to the Department, other specified individuals, and to appropriate authorities, include, but are not limited to, the following:

1. Crimes against patients;

2. Confirmed or suspected abuse, neglect, or exploitation;

3. Medication errors with adverse reaction;

4. Hospitalization or death resulting from the incident;

5. Severe hematoma, laceration or burn requiring medical attention or hospitalization;

6. Bone or joint fracture;

7. Severe injury;

8. Attempted suicide;

9. Fire; (II)

10. Natural disaster; (II)

11. Displacement or relocation of patients; and

12. Elopement.

C. The facility shall submit a separate written investigation report within five (5) days of every incident required to be immediately reported to the Department pursuant to Section 601.B via the Department's electronic reporting system or as otherwise determined by the Department. The facility's investigation report to the Department shall at least include, but is not limited to, the following information about the incident: incident type, description, date, location, number of patients, staff, and visitors injured or affected, patients' age, gender, record numbers or last four (4) digits of Social Security number, names of any witnesses, and identified cause of incident or internal investigation results.

D. The facility shall immediately notify a patient's attending physician and emergency contact within twenty-four (24) hours of significant changes in a patient's condition and shall document the significant changes and notification in the patient's record. (I)

E. The facility shall maintain documentation that all reporting of abuse, neglect, and exploitation of adults is conducted in accordance with S.C. Code Section 43-35-25.

602. Closure and Zero Census.

A. The facility shall notify the Department in writing prior to permanent closure of the facility and shall provide the effective closure date. The facility shall return its license to the Department on the date of closure. The facility shall notify the Department in writing within ten (10) days of closure on provisions for records maintenance and identification of displaced patients and their relocation.

B. The facility shall notify the Department in writing within fifteen (15) days prior to a temporary closure or within twenty-four (24) hours if the temporary closure is due to an emergency and provide the reason for the temporary closure, patient relocations, records maintenance plan, and anticipated reopening date. Facilities that are temporarily closed longer than one (1) year shall reapply for licensure with the Department and be subject to all applicable licensing and construction requirements for new facilities.

C. The facility shall notify the Department in writing if there have been no patients in the facility for any reason for ninety (90) days or more no later than one hundred (100) days after the last patient is discharged. Facilities that are zero census longer than one (1) year shall reapply for licensure with the Department and be subject to all applicable licensing and construction requirements for new facilities.

SECTION 700 – PATIENT RECORDS

701. Content. (II)

A. The facility shall initiate and maintain on site an organized record for each patient. The record shall contain sufficient documented information to identify the patient and the agency and/or person responsible for each patient; support the diagnosis and secure the appropriate care and services (as needed); justify the care and services provided to include the course of action taken and results; the symptoms or other indications of sickness or injury; changes in physical and/or mental condition; the response and/or reaction to care, medication, and diet provided; and promote continuity of care among providers, consistent with acceptable standards of practice. All entries shall be written legibly in ink, typed or electronic media, and signed, and dated.

B. If the facility permits any portion of a patient's record to be generated by electronic or optical means, there shall be policies and procedures to prohibit the use or authentication by unauthorized users.

C. Specific entries and documentation shall include at a minimum:

1. Consultations by physicians or other authorized healthcare providers;

2. Signed and dated orders and recommendations for all medication, care, services, procedures, and diet from physicians or other authorized healthcare providers, which shall be completed prior to, or at the time of admission, and subsequently, as warranted; (I)

3. Intake screening and initial physical assessment completed by a nurse;

4. Signed and dated original consent for treatment; (I)

5. The report of the mental status examination and other mental health assessments, as appropriate;

6. Daily progress notes by the direct care staff involved in the treatment of the patient, as applicable, to include documentation of significant behavioral events and actions taken by staff; and

7. Medication management and administration, and treatment records.

702. Screening. (I)

A. The facility shall have written protocols for screening individuals presenting for evaluation. The facility shall maintain documentation of the rationale for the denial of admission and referral of the individual as applicable.

B. Each facility shall provide screening services on a twenty-four (24) hours per day, seven (7) days per week basis. No person shall remain in the facility for more than eight (8) hours without being admitted or denied admission.

C. Initial screening for risk of suicide or harm to self or others shall be conducted and documented for each individual presenting to the facility.

703. Assessments. (II)

A. A nursing assessment shall be documented for all patients admitted within twenty-four (24) hours.

B. An emotional and behavioral assessment shall be documented for all patients admitted within twenty-four (24) hours. This assessment shall be completed by a mental health professional or other unit staff under the supervision of a mental health professional.

C. A direct psychiatric evaluation, including diagnosis, shall be documented by a physician, psychiatrist, physician assistant, or advanced practice registered nurse for all patients admitted within twenty-four (24) hours.

704. Individual Plan of Care. (II)

A. An individual plan of care ("IPC") shall be developed for each admitted patient. The plan shall be based on initial and ongoing needs, and completed within twenty-four (24) hours of admission. The IPC shall be documented in the patient's record and shall include the following:

1. Patient's name;

2. Diagnosis;

3. Date of IPC development;

4. Problems and strengths of the patient;

5. Individual objectives that relate to the specific problems identified;

6. Interventions that address each specific objective;

7. Signatures of direct care staff involved in the treatment of the patient and the development of the ICP;

8. Signature of the patient. Reasons for refusal to sign and/or inability to participate in IPC development shall be documented; and

9. Projected discharge date and anticipated post-discharge needs, including documentation of resources needed in the community.

B. A documented review of the IPC shall occur at least daily or upon completion of the stated goal(s) and objective(s).

705. Record Maintenance.

A. The licensee shall provide accommodations, space, supplies, and equipment for the protection, storage, and maintenance of patient records. Patient records shall be stored in an organized manner.

B. The patient record is confidential and shall be made available only to individuals authorized by the facility and/or the South Carolina Code of Laws. (II)

C. Records generated by organizations or individuals contracted by the facility for care or services shall be maintained by the facility that has admitted the patient.

D. Upon discharge of a patient, the record shall be completed within thirty (30) days, and filed in an inactive or closed file maintained by the licensee. Prior to the closing of a facility for any reason, the licensee shall arrange for preservation of records to ensure compliance with these regulations. The licensee shall notify the Department, in writing, describing these arrangements and the location of the records.

E. Records of patients shall be maintained for at least six (6) years following the discharge of the patient. Unless otherwise indicated, other regulation-required documents shall be retained at least twelve (12) months or since the last Department general inspection, whichever is the longer period.

F. Records of current patients are the property of the facility. The records of current patients shall be maintained at the facility and shall not be removed without court order.

SECTION 800 – ADMISSION AND RETENTION (I)

A. Individuals seeking admission shall be appropriate for the services, treatment, and care offered. The facility shall establish admission criteria that are consistently applied and comply with the facility's policies and procedures.

B. No supervision, care, or services shall be provided to individuals who have not been admitted as patients of the facility.

C. Patient stays shall not exceed fourteen (14) consecutive calendar days.

D. A facility shall not retain any patients who primarily need detoxification services.

E. A facility shall not retain any of the following persons:

1. A patient with a psychiatric condition of such severity that it can only be safely treated in an inpatient setting;

2. A patient with an unstable medical condition of such severity that it can only be safely managed in an inpatient setting;

3. A patient that does not voluntarily consent to admission or treatment; or

4. A patient that is violent or combative, and/or posing an imminent risk to themselves or others.

SECTION 900 – PATIENT CARE AND SERVICES

901. General. (II)

A. The written informed consent between the patient and the facility shall include at least the following:

1. An explanation of the specific care, services, and/or equipment provided by the facility;

2. An explanation of the conditions under which the patient may be discharged and the agreement terminated; and

3. Documentation of the explanation of the patient's rights (see Section 1000) and the grievance procedure.

B. The facility shall provide necessary items and assistance, if needed, for patients to maintain their personal cleanliness.

C. The provision of care and services to patients shall be guided by the recognition of and respect for cultural differences to ensure reasonable accommodations for patients with regard to differences, such as, but not limited to, religious practice and dietary preferences.

D. The facility shall make opportunities for participation in religious services available. Reasonable assistance in obtaining pastoral counseling shall be provided by the facility upon request by the patient.

902. Transportation. (II)

The facility shall secure or provide transportation for patients when a physician's services are needed. If a physician's services are not immediately available and the patient's condition requires immediate medical attention, the facility shall provide or secure transportation for the patient to appropriate health care providers.

903. Safety Precautions and Restraints. (I)

A. Periodic or continuous mechanical, physical or chemical restraints during routine care of a patient shall not be used, nor shall patients be restrained for staff convenience or as a substitute for care or services. However, in cases of extreme emergencies when a patient is posing an immediate danger to him or herself or others, mechanical and/or physical restraints may be initiated by staff of the facility to prevent harm to the patient, to other patients, or to staff, provided that use of mechanical and/or physical restraints must be ended as soon as the immediate threat of harm has ended, and in no case shall the use of restraints continue beyond one (1) hour

unless ordered by a physician or other authorized healthcare provider. An order for use of restraints must provide that their use shall be discontinued as soon as the immediate threat of harm posed by the patient has ended or until appropriate medical care can be secured, but in no case shall an order be valid for more than eight (8) hours. Only those devices specifically designed as restraints may be used.

B. Emergency restraint orders shall specify the reason for the use of the restraint, the type of restraint to be used, the maximum time the restraint may be used, and instructions for observing the patient while restrained, if different from the facility's written procedures. Patients certified by a physician or other authorized healthcare provider as requiring restraint for more than eight (8) hours shall be transferred to an appropriate facility.

C. During emergency restraint, patients shall be monitored at least every fifteen (15) minutes, and provided with an opportunity for motion and exercise at least every thirty (30) minutes. Prescribed medications and treatments shall be administered as ordered, and patients shall be offered nourishment and fluids and given bathroom privileges.

D. The use of mechanical restraints shall be documented in the patient's record, and shall include the date and time implemented, the length of time restrained, observations while patient is restrained, and the requirements of Section 903.C above.

904. Discharge and Transfer.

A. A discharge summary, based upon the particular needs of the patient, shall be documented and provided to the patient at the time of discharge that includes:

1. Reason(s) for discharge;

2. Specific instructions for post-discharge care; and

3. Contact information for how to access community services, if applicable.

B. Any of the following criteria is sufficient for transfer or discharge from the facility:

1. The patient manifests behavioral, substance-related, and/or psychiatric symptoms that require a less intensive level of care;

2. The patient is at imminent risk of causing serious physical harm to self or others;

3. The symptoms are a result of or complicated by a medical condition that warrants admission to a medical setting for treatment;

4. Any other medical condition or behavior which the facility staff deems unsafe for continued retention in the facility; or

5. The patient requires treatment, care, or services for longer than fourteen (14) days.

SECTION 1000 – RIGHTS AND ASSURANCES

A. The facility shall comply with all current federal, state, and local laws and regulations concerning patient care, patient rights and protections, and privacy and disclosure requirements, such as the Omnibus Adult Protection Act notice and Title VII, Section 601 of the Civil Rights Act of 1964. (I)

B. Patient rights shall be guaranteed and, at a minimum, the facility shall inform the patient of: (II)

1. The care to be provided and the opportunity to participate in care and treatment planning;

2. Grievance and complaint procedures;

3. Confidentiality of patient records;

4. Respect for the patient's property;

5. Specific coverage and non-coverage of services and of his or her liability for payment;

6. Freedom from abuse and exploitation; and (I)

7. Respect and dignity in receiving treatment, care, and services. (I)

C. A copy of the facility's patient rights shall be provided to the patient. (II)

D. Patients shall not be locked in or out of their rooms or any common usage areas in the facility, or in or out of the facility building. Exit doors may be equipped with delayed egress locks as permitted by the codes referenced in Section 1902. (I)

EXCEPTION: Exit doors may be locked with written approval by the Department and as permitted by the codes referenced in Section 1902.

E. The facility shall develop a grievance and complaint procedure to be exercised on behalf of the patients which includes the address and phone number of the Department, and a provision prohibiting retaliation should the grievance right be exercised. (II)

SECTION 1100 – PATIENT PHYSICAL EXAMINATION (I)

A. All patients admitted to a facility shall have a signed and dated physical examination conducted by a physician or other authorized healthcare provider within twenty-four (24) hours of admission. The physical examination shall include a medical history and diagnosis supporting admission.

B. If a patient or potential patient has a communicable disease, the administrator shall seek advice from a physician or other authorized healthcare provider in order to:

1. Ensure the facility has the capability to provide adequate care and prevent the spread of that condition, and that the staff members and volunteers are adequately trained; and

2. Transfer the patient to an appropriate facility, if necessary.

SECTION 1200 – MEDICATION MANAGEMENT

1201. General. (I)

Medications, including controlled substances, medical supplies, and those items necessary for the rendering of first aid, shall be properly managed in accordance with federal, state, and local laws and regulations. Such management shall address the securing, storing, and administering of medications, medical supplies, first aid supplies, and biologicals, their disposal when discontinued or expired, and their disposition at discharge, death, or transfer of a patient.

1202. Medication and Treatment Orders. (I)

A. Medications and treatments, including oxygen, shall be administered to patients only upon orders of a physician or other authorized healthcare provider. Medications accompanying patients at admission may be administered to patients provided the medication is in the original labeled container and the order is subsequently obtained as a part of the admission physical examination.

B. All verbal orders shall be received by a nurse and shall be signed and dated by a physician or other authorized healthcare provider no later than three (3) business days after the order is given.

C. Medications and medical supplies ordered for a specific patient shall not be provided or administered to any other patient.

1203. Administering Medication and/or Treatments. (I)

A. Doses of medication shall be administered by the same nurse who prepared them for administration. Preparation shall occur no earlier than one (1) hour prior to administering. Preparation of doses for more than one (1) scheduled administration shall not be permitted. Each treatment or medication dose administered shall be recorded on the patient's medication administration record ("MAR") as it is administered, or treatment administration record ("TAR") after it is rendered. Should an ordered dose of medication or treatment not be administered or rendered, an explanation as to the reason shall be recorded on the MAR or TAR. The MAR shall be documented to include the medication name, dosage, mode of administration, date and time of administration, and the signature of the nurse administering the medication. If the ordered dosage is to be given on a varying schedule, for example, "take two tablets the first day and one tablet every other day by mouth with noon meal," the number of tablets shall also be recorded. The TAR shall be documented to include the type of treatment, date and time of treatment, and the signature of the nurse rendering the treatment.

B. A facility nurse may monitor patient blood sugar levels provided the facility has received a "Certificate of Waiver" from the Clinical Laboratories Improvement Amendments ("CLIA").

C. Self-administering of medications by a patient is permitted only:

1. Upon the specific written orders of the physician or other authorized healthcare provider; and

2. The facility shall ascertain by patient demonstration to the staff and document that she or he remains capable of self-administering medications.

D. A facility may prohibit self-administration of medications and treatments.

E. At each shift change, there shall be a documented review of the MARs by the incoming and outgoing nurses to verify that medications were administered in accordance with orders, and the administrations were documented. All errors and/or omissions indicated on the MARs shall be addressed and corrective action taken at that time.

1204. Medication Containers (I)

A. Medications for patients shall be obtained from a permitted pharmacy or authorized healthcare provider as allowed by law on an individual prescription basis. These medications shall bear a label affixed to the container which reflects at least the following: name of pharmacy, name of patient, name of the prescribing physician or other authorized healthcare provider, date and prescription number, directions for use, and the name and dosage unit of the medication. The label shall be brought into accord with the directions of the physician or other authorized healthcare provider each time the prescription is refilled. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the pharmacy for re-labeling or disposal.

B. Medications for each patient shall be kept in the original containers including unit dose systems. There shall be no transferring between containers, or opening blister packs to remove medications for destruction or adding new medications for administration.

1205. Medication Storage (I)

A. Medications shall be stored and safeguarded in a locked medicine preparation room, cabinet or cart. Medications shall be monitored and attended at all times to prevent access by unauthorized individuals. Expired or discontinued medications shall not be stored with current medications. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life.

B. Medications requiring refrigeration or freezing shall be stored in a locked refrigerator or freezer as appropriate at the temperature range established by the manufacturer used exclusively for that purpose. Food and drinks shall not be stored in the same refrigerator or freezer in which medications and biologicals are stored. Refrigerators and freezers shall be provided with a thermometer accurate to plus or minus two (2) degrees Fahrenheit.

C. Medications shall be stored:

1. In accordance with manufacturer's directions and in accordance with all applicable federal, state, and local laws and regulations;

2. Separately from poisonous substances, such as cleaning and germicidal agents, or body fluids;

3. In a manner that provides for separation between topical and oral medications, and which provides for separation of each patient's medication; and

4. In medicine preparation rooms or cabinets that are well-lighted and of sufficient size to permit orderly storage and preparation of medications. Keys to the medicine preparation room, cabinet, refrigerator or medication cart at the staff work area shall be under the control of a designated licensed nurse.

D. Unless the facility has a permitted pharmacy, legend drugs shall not be stored in the facility except those specifically prescribed for individual patients. Non-legend drugs that can be obtained without a prescription may be retained and labeled as stock in the facility for administration as ordered by a physician or other authorized healthcare provider.

E. Prescribed and over-the-counter medications may be maintained at patient's bedside upon physician orders if kept in an individual cabinet or compartment that is locked, such as the drawer of the patient's night stand, in the room of each patient who has been authorized in writing to self-administer by a physician or other authorized healthcare provider, in accordance with facility policies and procedures.

F. Medications scheduled as Schedule II controlled substances pursuant to the federal or state Controlled Substances Act shall be stored in separately locked, permanently affixed, compartments within a locked medicine preparation room, cabinet, or medication cart, unless otherwise authorized by a change in the state or federal law pertaining to the unit dose or multidose system.

G. A facility shall maintain records of receipt, administration and disposition of all controlled substances in sufficient detail to enable an accurate reconciliation including:

1. Separate records for controlled substances shall be maintained and include the following information: date, time administered, name of patient, dose, signature of individual administering, name of physician or other authorized healthcare provider ordering the medication, and all scheduled controlled substances balances; and

2. At each shift change, there shall be a documented review of the controlled substance records by the incoming and outgoing nurses to verify an accurate reconciliation of the controlled substances.

H. The medications prescribed for a patient shall be protected from use by any other individuals. For those patients who have been authorized by a physician or other authorized healthcare provider to self-administer medications, such medications may be kept on the patient's person, such as, a pocketbook, pocket, or any other method that would enable the patient to control the items.

1206. Disposition of Medications (I)

A. Upon discharge or death of a patient, a facility in possession of unused medications belonging to the patient that do not constitute a controlled substance under 21 U.S.C. Section 802(32) shall release the unused medications to the patient, family member, or responsible party, as appropriate, and shall document the release with the signature of the person receiving the unused medications unless specifically prohibited by the attending physician or other authorized healthcare provider.

B. Upon death of a patient, a facility in possession of unused medications belonging to the patient that constitute 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. The facility shall document the release for disposal in the patient's record.

C. Upon discharge of a patient, a facility in possession of unused medications belonging to the patient that constitute 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. The facility shall document the release in the patient's record.

SECTION 1300 – MEAL SERVICE

1301. General. (II)

A. All facilities that prepare food on-site shall be approved by the Department, and regulated, inspected, and permitted pursuant to Regulation 61-25, Retail Food Establishments.

B. When meals are catered to a facility, such meals shall be obtained from a food service establishment graded by the Department pursuant to R.61-25, and there shall be a written executed contract with the food service establishment.

C. All food served to the patients shall meet the requirements of R.61-25 for temperature, storage, display, and general protection against contamination. The use of home canned foods is prohibited.

D. There shall be at least one (1) hand sink equipped with hot and cold water, liquid soap, and an individualized method of drying hands. A handwashing sink shall be equipped to provide water at a temperature of at least one hundred (100) degrees Fahrenheit through a mixing valve or combination faucet.

E. Washing and sanitation of all food contact and non-food contact surfaces, equipment, and utensils shall meet the standards required by R.61-25.

1302. Meals and Special Diets.

A. All facilities shall provide dietary services to meet the daily nutritional needs of the patients. (I)

B. A minimum of three (3) nutritionally-adequate meals in each twenty-four (24) hour period shall be provided for each patient unless otherwise directed by the patient's physician or other authorized healthcare provider. Not

more than fourteen (14) hours shall elapse between the serving of the evening meal and breakfast the following day. (II)

C. Specific times for serving meals shall be established.

D. Suitable food and snacks shall be available and offered between meals at no additional cost to the patients. (II)

E. Special diets shall be prescribed, dated and signed by the physician. (I)

1303. Diets. (I)

If the facility accepts patients in need of medically-prescribed special diets, the menus for such diets shall be planned by a professionally-qualified dietitian or shall be reviewed and approved by a physician or other authorized healthcare provider. The facility shall maintain documentation that each of these menus has been planned by a dietitian, a physician or other authorized healthcare provider. At a minimum, documentation for each patient's special diet menu shall include the signature of the dietitian, the physician or other authorized healthcare provider, his or her title, and the date he or she signed the menu. Facility staff preparing a patient's special diet shall be knowledgeable of the procedure to prepare each special diet. The preparation of any patient's special diet shall follow the written guidance provided by a registered dietitian, physician, or other authorized healthcare provider authorizing the patient's special diet. For each patient receiving a special diet, this written guidance shall be documented in the patient's record.

1304. Menus.

One (1) week's menus, including routine and special diets and any substitutions or changes made, shall be readily available and posted in one (1) or more conspicuous places in a public area.

1305. Ice and Drinking Water. (II)

A. Ice from a water system in accordance with Regulation 61-58, State Primary Drinking Water Regulations, shall be available and precautions shall be taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside of the ice container.

B. Potable drinking water shall be available and accessible to patients at all times.

C. The usage of common cups shall be prohibited.

D. Ice delivered to patient areas in bulk shall be in nonporous, covered containers that shall be cleaned after each use.

SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS

1401. Disaster Preparedness. (II)

A. All facilities shall develop, by contact and consultation with their county emergency preparedness agency, a written plan for actions to be taken in the event of a disaster and/or emergency evacuation. The plan shall be implemented as necessary and at the time of need. Prior to initial licensing and at the time of each license renewal, a completed form prescribed and furnished by the Department addressing specific components of the plan shall be included with each application submitted to the Department for license renewal. Additionally, in instances where applications include an increase in the licensed bed capacity, the plan shall be updated to address the proposed new total licensed bed capacity and an updated form shall be provided to the Department with the application. All staff members and volunteers shall be made familiar with this plan and instructed as to any

required actions of the plan. A copy of the plan shall be available for inspection by the patient and/or responsible party and the Department upon request. The plan shall be reviewed and updated annually, and as appropriate. The facility shall conduct and document a rehearsal of the emergency and disaster evacuation plan at least annually and shall not require patient participation.

B. Evacuation is a temporary measure in order to evacuate patients from potentially hazardous and/or harmful circumstances and shall not exceed seven (7) calendar days. In the event evacuated patients are unable to return to the facility within seven (7) days due to damage to the facility or its components, the lack of electricity and/or water, or other similar reasons, the facility shall endeavor to assess each patient's current condition and identify each patient's current needs and preferences. Based on the resources available, the facility shall implement each patient's discharge plan. For patients needing assistance or support following discharge, the facility shall coordinate the transfer of the patients to their responsible parties or to appropriately licensed facilities capable of meeting the patients' needs.

C. The disaster and/or emergency evacuation plan shall include, but not be limited to:

1. A sheltering plan to include:

a. The licensed bed capacity and average occupancy rate;

b. Name, address and phone number of the sheltering facility(ies) to which the patients will be relocated during a disaster; and

c. A letter of agreement signed by an authorized representative of each sheltering facility which shall include: the number of relocated patients that can be accommodated; sleeping, feeding, and medication plans for the relocated patients; and provisions for accommodating relocated staff members and volunteers. The letter shall be updated with the sheltering facility at least every three (3) years and whenever significant changes occur. For those facilities located in Beaufort, Charleston, Colleton, Georgetown, Horry, and Jasper counties, at least one (1) sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include agreements with entities for relocating patients, which addresses:

a. Number and type of vehicles required;

b. How and when the vehicles are to be obtained;

c. Who (by name or organization) will provide drivers;

d. Procedures for providing appropriate medical support, food, water, and medications during transportation and relocation based on the needs and number of the patients;

e. Estimated time to accomplish the relocation; and

f. Primary and secondary routes to be taken to the sheltering facility.

3. A staffing plan for the relocated patients, to include:

a. How care will be provided to the relocated patients, including the number and type of staff members that will accompany patients who are relocated;

b. Prearranged transportation arrangements to ensure staff members are relocated to the sheltering facility; and

c. Co-signed statement by an authorized representative of the sheltering facility if staffing is to be provided by the sheltering facility.

1402. Emergency Call Numbers. (II)

Emergency call data shall be posted in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members and volunteers to be notified in case of emergency.

1403. Continuity of Essential Services. (II)

There shall be a written plan to be implemented to ensure the continuation of essential patient support services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

SECTION 1500 – FIRE PREVENTION

1501. Arrangements for Fire Department Response and Protection. (I)

A. Each facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire, such as, fire plan and evacuation plan.

B. Facilities located outside of a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. A copy of the agreement shall be kept on file in the facility and a copy shall be forwarded to the Department. If the agreement is changed, a copy shall be forwarded to the Department.

1502. Tests and Inspections. (I)

Fire protection and suppression systems shall be maintained and tested in accordance with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the facility.

1503. Fire Response Training. (I)

A. Fire response training shall address at a minimum, the following:

1. Fire plan, including the training of staff members and volunteers;

2. Reporting a fire;

3. Use of the fire alarm system, if applicable;

4. Location and use of fire-fighting equipment;

5. Methods of fire containment; and

6. Specific responsibilities, tasks, or duties of each individual.

B. A plan for the evacuation of patients, staff members, and visitors, to include evacuation routes and procedures, in case of fire or other emergencies, shall be established and posted in conspicuous public areas throughout the facility.

C. All patients capable of assisting in their evacuation shall be trained in the proper actions to take in the event of a fire, for example, actions to take if the primary escape route is blocked.

D. Patients shall be made familiar with the fire plan and evacuation plan upon admission and a copy of the evacuation floor diagram shall be provided to each patient and/or the patient's responsible party.

1504. Fire Drills. (I)

A. An unannounced fire drill shall be conducted at least quarterly for all shifts. Each staff member and volunteer shall participate in a fire drill at least once each year. Records of drills shall be maintained at the facility, indicating the date, time, shift, description, and evaluation of the drill, and the names of staff members and volunteers and patients directly involved in responding to the drill. If fire drill requirements are mandated by statute or regulation, then provisions of the statute or regulation shall be complied with and shall supersede the provisions of Section 1504.

B. Drills shall be designed and conducted in consideration of and reflecting the content of the fire response training described in Section 1503 above.

C. All patients shall participate in fire drills. In instances when a patient refuses to participate in a drill, efforts shall be made to encourage participation, for example, counseling, implementation of incentives rewarding patients for participation, specific staff or volunteer to patient assignments to promote patient participation. Continued refusal may necessitate implementation of the discharge planning process to place the patient in a setting more appropriate to their needs and abilities.

D. In conducting fire drills, all patients shall evacuate to the outside of the building to a selected assembly point. Drills shall be designed to ensure that patients attain the experience of exiting through all exits.

SECTION 1600 – MAINTENANCE

The facility shall keep all equipment and building components (for example, doors, windows, lighting fixtures, plumbing fixtures) in good repair and operating condition. The facility shall document preventive maintenance. The facility shall comply with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the facility. (II)

SECTION 1700 – INFECTION CONTROL

1701. Staff Practices. (I)

Staff and volunteer practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures and practices shall be in compliance with applicable guidelines of the *Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970*, as amended; the Centers for Disease Control and Prevention ("CDC"); and Regulation 61-105, Infectious Waste Management Regulations; and other applicable federal, state, and local laws and regulations.

1702. Tuberculosis Risk Assessment and Screening. (I)

A. All facilities shall conduct an annual tuberculosis risk assessment (see Section 101.SS) in accordance with CDC guidelines to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

B. The risk classification, for example, low risk, medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff and volunteers and patients and the frequency

of screening. A risk classification shall be determined for the entire facility. In certain settings, for example, healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, patient population, job type, or location within the setting may have separate risk classifications.

C. Staff and Volunteers Tuberculosis Screening.

1. Tuberculosis Status. Prior to date of hire or initial patient contact, the tuberculosis status of staff and volunteers shall be determined in the following manner in accordance with the applicable risk classification:

2. Low Risk:

a. Baseline two-step Tuberculin Skin Test ("TST") or a single Blood Assay for *Mycobacterium tuberculosis* ("BAMT"): All staff and volunteers (within three (3) months prior to contact with patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff or volunteer has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered and read to serve as the baseline prior to patient contact.

b. Periodic TST or BAMT is not required.

c. Post-exposure TST or a BAMT for staff and volunteers upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case or suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

d. Baseline positive with or without documentation of treatment for latent TB infection ("LTBI") (see Section 101.Z) or TB disease shall have a symptoms screen prior to employment and annually thereafter.

e. Upon hire, staff and volunteers with a newly positive test result for *M. tuberculosis* infection (for example, TST or BAMT) or signs or symptoms of tuberculosis, for example, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a physician. These staff members and volunteers will be evaluated for the need for treatment of TB disease or LTBI and will be encouraged to follow the recommendations made by a physician with TB expertise (for example, the Department's TB Control program).

3. Medium Risk:

a. Baseline two-step TST or a single BAMT: All staff and volunteers (within three (3) months prior to contact with patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff member or volunteer has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline prior to patient contact.

b. Periodic testing (with TST or BAMT): Annually, of all staff and volunteers who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff and volunteers with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff or volunteer who have documented TB infection about symptoms of TB disease (including the staff's and/or volunteers' responses concerning symptoms of TB disease), documenting the questioning of the staff or volunteers about the presence of symptoms of TB disease, and instructing the staff or volunteers to report any such symptoms immediately to the administrator. Treatment for LTBI shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.

c. Post-exposure TST or a BAMT for staff or volunteers upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation (see Section 101.I) when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff and volunteers who have had unprotected exposure to an infectious TB case or suspect. If the TST or the BAMT result is negative, administer another TST or BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

4. Baseline Positive or Newly Positive Test Result:

a. Baseline positive with or without documentation of treatment for LTBI or TB disease shall have a symptoms screen prior to employment and annually thereafter.

b. Upon hire, staff and volunteers with a newly positive test result for *M.tuberculosis* infection (for example, TST or BAMT) or signs or symptoms of tuberculosis, for example, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician. These staff members and volunteers will be evaluated for the need for treatment of TB disease or LTBI and will be encouraged to follow the recommendations made by a physician with TB expertise (for example, the Department's TB Control program).

c. Staff and volunteers who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician, and permitted to return to work only with written approval by the Department's TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician.

D. Patients who are known or suspected to have TB disease shall be transferred from the facility if the facility does not have an Airborne Infection Isolation room, required to undergo evaluation by a physician, and permitted to return to the facility only with written approval by the Department's TB Control program.

E. Individuals who have been declared in writing to be in an emergency crisis stabilization status may be admitted to the facility without the initial step of the two-step tuberculin skin test and/or while awaiting the result of a BAMT. If an individual has any symptoms of active tuberculosis, he or she shall be placed in an area separate from the general population. This admission to the facility may be made provided that:

1. There is documentation at the facility of the declaration by the SCDMH that the admission is, in fact, an emergency (NOTE: Only this agency may declare these crisis stabilization admissions to be an emergency); and

2. The patient will receive the initial step of the two-step tuberculin test within seventy-two (72) hours of admission to the facility. The second step of the two-step tuberculin skin test must be administered within the next seven to fourteen (7 to 14) days; or

3. There is written evidence of a chest x-ray within one (1) month prior to admission and a written assessment by a physician or other authorized healthcare provider that there is no active TB present and a negative assessment for signs and/or symptoms of tuberculosis.

1703. Housekeeping. (II)

The facility and its grounds shall be clean, and free of vermin and offensive odors.

A. Interior housekeeping shall, at a minimum, include:

1. Cleaning each specific area of the facility;

2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area appropriate to the area and the equipment's purpose or use;

3. Chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be in locked storage areas and inaccessible to patients; and

4. During use of chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be in direct possession of the staff member and monitored at all times.

B. Exterior housekeeping shall, at a minimum, include:

1. Cleaning of all exterior areas, such as, porches and ramps, and removal of safety impediments such as snow and ice;

2. Keeping facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin; and

3. Safe storage of chemicals indicated as harmful on the product label, equipment and supplies inaccessible to patients.

1704. Infectious Waste. (I)

Accumulated waste, including all contaminated sharps, dressings, and/or similar infectious waste, shall be disposed of in a manner compliant with *OSHA Bloodborne Pathogens Standard*, and R.61-105.

1705. Clean and Soiled Linen and Clothing. (II)

A. Clean Linen and Clothing.

1. A supply of clean, sanitary linen and clothing shall be available at all times.

2. In order to prevent the contamination of clean linen and clothing by dust or other airborne particles or organisms, clean linen and clothing shall be stored and transported in a sanitary manner, for example, enclosed and covered.

3. Clean linen and clothing shall be separated from storage for other purposes.

B. Soiled Linen and Clothing.

1. Soiled linen and clothing shall neither be sorted, rinsed, nor washed outside of the laundry service area;

2. Provisions shall be made for collecting, transporting, and storing soiled linen and clothing;

3. Soiled linen and clothing shall be kept in solid enclosed, covered, and leak proof containers; and

4. Laundry operations shall not be conducted in patient rooms, dining rooms, or in locations where food is prepared, served, or stored.

SECTION 1800 – QUALITY IMPROVEMENT PROGRAM (II)

A. There shall be a written, implemented quality improvement program that provides effective self-assessment and implementation of changes designed to improve the care and services provided by the facility.

B. The quality improvement program, at a minimum, shall:

1. Establish desired outcomes and the criteria by which policy and procedure effectiveness is regularly, systematically, and objectively accomplished;

2. Identify, evaluate, and determine the causes of any deviation from the desired outcomes;

3. Identify the action taken to correct deviations and prevent future deviation, and the person(s) responsible for implementation of these actions;

4. Analyze the appropriateness of IPCs and the necessity of care and services rendered;

5. Analyze all incidents and accidents, to include all medication errors and patient deaths;

6. Analyze any infection, epidemic outbreaks, or other unusual occurrences which threaten the health, safety, or well-being of the patients; and

7. Establish a systematic method of obtaining feedback from patients and other interested persons, for example, family members and peer organizations, as expressed by the level of satisfaction with care and services received.

SECTION 1900 – DESIGN AND CONSTRUCTION

1901. General. (II)

A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each patient. Facility design shall be such that all patients have access to required services. There shall be at least two hundred (200) gross square feet per licensed bed in facilities with ten (10) beds or less, and in facilities licensed for more than ten (10) beds, at least an additional one hundred (100) gross square feet per licensed bed.

1902. Codes and Standards. (II)

A. Facility design and construction shall comply with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the facility.

B. Unless specifically required otherwise by the Department, all facilities shall comply with the adopted construction codes and construction provisions of this regulation applicable at the time its initial license was issued.

1903. Submission of Plans. (II)

A. Plans and specifications shall be submitted to the Department for review and approval for new construction, additions or alterations to existing buildings, replacement of major equipment, buildings being licensed for the first time, buildings changing license type, and for facilities increasing occupant load or licensed capacity. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. Unless directed otherwise by the Department, submit plans at the schematic, design development, and final stages. All plans shall be drawn to scale with the title, stage of submission and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction, the owner shall employ a registered architect and/or engineer for observation and inspections. The Department shall conduct periodic inspections throughout each project.

B. Plans and specifications shall be submitted to the Department for review and approval for projects that have an effect on:

1. The function of a space;

2. The accessibility to or of an area;

3. The structural integrity of the facility;

4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);

5. Doors;

6. Walls;

7. Ceiling system assemblies;

8. Exit corridors;

9. Life safety systems; or

10. That increase the occupant load or licensed capacity of the facility.

C. All subsequent addenda, change orders, field orders, and documents altering the Department review must be submitted. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

D. Cosmetic changes utilizing paint, wall covering, floor covering, etc. that are required to have a flame-spread rating or to satisfy other safety criteria shall be documented with copies kept on file at the facility and made available to the Department.

1904. Inspections.

Construction work which violates codes or standards will be required to be brought into compliance. All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by the Department.

SECTION 2000 – FIRE PROTECTION, PREVENTION, AND LIFE SAFETY (I)

A. Facilities with six (6) or more licensed beds shall have a partial, manual, automatic, supervised fire alarm system. The facility shall arrange the system to transmit an alarm automatically to a third party. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculation systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. All fire, smoke, heat, sprinkler flow, and manual fire alarming devices must be connected to and activate the main fire alarm system when activated.

SECTION 2100 – GENERAL CONSTRUCTION

2101. Floor Finishes. (II)

A. Floor coverings and finishes shall meet the requirements of the building codes.

B. All floor coverings and finishes shall be appropriate for use in each area of the facility and free of hazards, such as slippery surfaces. Floor finishes shall be composed of materials that permit frequent cleaning, and when appropriate, disinfection.

2102. Wall Finishes. (I)

A. Wall finishes shall meet the requirements of the building codes.

B. Manufacturers' certifications or documentation of treatment for flame spread and other safety criteria shall be furnished and maintained.

2103. Curtains and Draperies. (II)

In bathrooms and patient rooms, window treatments shall be arranged in a manner to provide privacy.

2104. Gases. (I)

A. Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. "No Smoking" signs shall be posted conspicuously, and cylinders shall be properly secured in place.

B. Smoking shall be allowed only in designated areas in accordance with the facility smoking policy. No smoking is permitted in patient rooms or staff bedrooms or restrooms.

2105. Furnishings and Equipment. (I)

A. The facility shall maintain the physical plant to be free of fire hazards or impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted in the facility.

C. Fireplaces and fossil-fuel stoves, for example, wood-burning, shall have partitions or screens or other means to prevent burns. Fireplaces shall be vented to the outside. "Unvented" type gas logs are not allowed. Gas fireplaces shall have a remote gas shutoff within the room and not inside the fireplace.

D. Wastebaskets, window dressings, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant.

SECTION 2200 – EXITS (I)

A. The facility shall maintain halls, corridors and all other means of egress from the building to be free of obstructions.

B. Each patient room shall open directly to an approved exit access corridor without passage through another occupied space or shall have an approved exit directly to the outside at grade level and accessible to a public space free of encumbrances.

EXCEPTION: When two (2) patient rooms share a common "sitting" area that opens onto the exit access corridor.

SECTION 2300 – WATER SUPPLY AND HYGIENE

2301. Design and Construction. (II)

A. Patient and staff hand washing lavatories and patient showers and tubs shall be supplied with hot and cold water at all times.

B. Plumbing fixtures that require hot water and are accessible to patients shall be supplied with water that is thermostatically controlled to a temperature of at least one hundred (100) degrees Fahrenheit and not to exceed one hundred twenty (120) degrees Fahrenheit at the fixture.

C. The water heater or combination of heaters shall be sized to provide at least six (6) gallons per hour per bed at the above temperature range.

D. Hot water supplied to the kitchen equipment and utensil washing sink shall be supplied at one hundred twenty (120) degrees Fahrenheit provided all kitchen equipment and utensils are chemically sanitized. For those facilities sanitizing with hot water, the sanitizing compartment of the kitchen equipment and utensil washing sink shall be capable of maintaining the water at a temperature of at least one hundred eighty (180) degrees Fahrenheit.

E. Hot water provided for washing linen and clothing shall not be less than one hundred sixty (160) degrees Fahrenheit. Should chlorine additives or other chemicals which contribute to the margin of safety in disinfecting linen and clothing be a part of the washing cycle, the minimum hot water temperature shall not be less than one hundred ten (110) degrees Fahrenheit, provided hot air drying is used.

2302. Cross-connections. (I)

There shall be no cross-connections in plumbing between safe and potentially unsafe water supplies. Water shall be delivered at least two (2) delivery pipe diameters above the rim or points of overflow to each fixture, equipment, or service unless protected against back-siphonage by approved vacuum breakers or other approved back-flow preventers. A faucet or fixture to which a hose may be attached shall have an approved vacuum breaker or other approved back-flow preventer.

SECTION 2400 – ELECTRICAL

2401. Receptacles. (II)

A. Patient Room. Each patient room shall have duplex grounding type receptacles located to include one (1) at the head of each bed.

B. Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of the ends of corridors.

2402. Ground Fault Protection. (I)

A. Ground fault circuit-interrupter protection shall be provided for all outside receptacles and bathrooms.

B. The facility shall provide ground fault circuit-interrupter protection for any receptacles within six (6) feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.

2403. Exit Signs. (I)

A. In facilities licensed for six (6) or more beds, required exits and ways to access thereto shall be identified by electrically-illuminated exit signs.

B. Changes in egress direction shall be marked with exit signs with directional arrows.

C. Exit signs in corridors shall be provided to indicate two (2) directions of exit.

2404. Emergency Electric Service. (I)

Emergency electric services shall be provided as follows:

A. Exit lights, if required;

B. Exit access corridor lighting;

C. Illumination of means of egress; and

D. Fire detection and alarm systems, if required.

SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) (II)

A. The HVAC system shall be inspected at least once a year by a certified or licensed technician.

B. The facility shall maintain a temperature of between seventy-two (72) and seventy-eight (78) degrees Fahrenheit in patient areas.

C. No HVAC supply or return grille shall be installed within three (3) feet of a smoke detector. (I)

D. HVAC grilles shall not be installed in floors.

E. Intake air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials. The system shall not discharge in such a manner that would be an irritant to the patients, staff, or volunteers.

F. All kitchen areas shall be adequately ventilated in order for all areas to be kept free from excessive heat, steam, condensation, vapors, smoke, and fumes.

G. Each bathroom and/or restroom shall have either operable windows or have approved mechanical ventilation.

SECTION 2600 – PHYSICAL PLANT

2601. Facility Accommodations and Floor Area. (II)

A. There shall be sufficient living arrangements providing for patients' quiet reading, study, relaxation, entertainment, or recreation, to include living, dining, and recreational areas available for patients' use.

B. Methods for ensuring visual and auditory privacy between patient and staff, volunteers, and visitors shall be provided as necessary.

2602. Patient Rooms.

A. Each patient room shall be equipped with the following as a minimum for each patient:

1. A comfortable single bed having a mattress with moisture-proof cover, sheets, blankets, bedspread, pillow, and pillowcases; roll-away type beds, cots, bunkbeds, and folding beds shall not be used; and (II)

2. A closet, wardrobe, or bureau to accommodate each patient's personal clothing, belongings, and toilet articles.

B. Beds shall not be placed in corridors, solaria, or other locations not designated as patient room areas. (I)

C. No patient room shall contain more than three (3) beds. (II)

D. No patient room shall be located in a basement.

E. Access to a patient room shall not be by way of another patient room, toilet, bathroom, or kitchen.

2603. Patient Room Floor Area.

A. Each patient room shall be an outside room with an outside window or door. (I)

B. In non-apartment units, the patient sleeping room floor area is a usable or net area and does not include wardrobes (built-in or freestanding), closets, or the entry alcove to the room. The following is the minimum floor space allowed: (II)

1. Rooms for only one (1) patient: one hundred (100) square feet; and

2. Rooms for more than one (1) patient: eighty (80) square feet per patient.

C. Patient sleeping rooms shall be of sufficient size to allow three (3) feet between two (2) beds. (II)

2604. Bathrooms and Restrooms. (II)

A. Separate bathroom facilities shall be provided for staff members, volunteers, public, and/or family.

B. Toilets shall be provided in ample number to serve the needs of staff members, volunteers, and the public. The minimum number for patients shall be one (1) toilet for each six (6) licensed beds or fraction thereof.

C. There shall be at least one (1) handwash lavatory adjacent to each toilet. Liquid soap shall be provided in public restrooms and bathrooms used by more than one (1) patient. Communal use of bar soap is prohibited. A sanitary individualized method of drying hands shall be available at each lavatory.

D. There shall be one (1) bathtub or shower for each eight (8) licensed beds or fraction thereof.

E. All bathtubs, toilets, and showers used by patients shall have approved grab bars securely fastened in a usable fashion.

F. Privacy shall be provided at toilets, urinals, bathtubs, and showers.

G. Toilet facilities shall be at or adjacent to the kitchen for kitchen employees.

H. Facilities for handicapped persons shall be provided whether or not any of the patients are classified as handicapped.

I. All bathroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

J. There shall be a mirror above each bathroom lavatory for patients' grooming.

K. An adequate supply of toilet tissue shall be maintained in each bathroom.

L. Easily cleanable receptacles shall be provided for waste materials. Such receptacles in toilet rooms for women shall be covered.

M. Bar soap, bath towels, and washcloths shall be provided to each patient as needed. Bath linens assigned to specific patients may not be stored in centrally located bathrooms. Provisions shall be made for each patient to properly keep their bath linens in their room, such as, on a towel hook or bar designated for each patient occupying that room, or bath linens to meet patient needs shall be distributed as needed, and collected after use and stored properly, see Section 1705.

2605. Doors. (II)

A. All patient rooms and bathrooms and restrooms shall have opaque doors for the purpose of privacy.

B. All glass doors, including sliding or patio type doors shall have a contrasting or other indicator that causes the glass to be observable, for example, a decal located at eye level.

C. Bathroom and restroom door widths shall be at least thirty-six (36) inches wide.

D. Doors to patient occupied rooms shall be at least thirty-six (36) inches wide.

E. Doors that have locks shall be unlockable and openable with one (1) action.

F. If patient room doors are lockable, there shall be provisions for emergency entry. There shall not be locks that cannot be unlocked and operated from inside the room.

G. All patient room doors shall be solid-core. Patient room doors shall be rated and provided with closers and latches as required by the codes referenced in Section 1902.

2606. Ramps. (II)

A. At least one (1) exterior ramp, accessible by all patient, staff members, volunteers, and visitors shall be installed from the first floor to grade.

B. The ramp shall serve all portions of the facility where patients are located.

C. The surface of a ramp shall be of nonskid materials.

D. Ramps in facilities with eleven (11) or more licensed beds shall be of noncombustible construction. (I)

E. Ramps shall discharge onto a surface that is firm and negotiable by a wheelchair in all weather conditions and to a location accessible for loading into a vehicle.

2607. Screens. (II)

Windows, doors, and openings intended for ventilation shall be provided with insect screens.

2608. Windows and Mirrors.

A. The window dimensions and maximum height from floor to sill shall be in accordance with the building codes, as applicable.

B. Where patient safety awareness is impaired, safety (non-breakable) mirrors shall be used.

2609. Janitor's Closet. (II)

There shall be a lockable janitor's closet in all facilities. Each closet shall be equipped with a mop sink or receptor and space for the storage of supplies and equipment.

2610. Storage Areas.

A. General storage areas shall be provided for patient, staff, and volunteer belongings, equipment, and supplies as well as clean linen, soiled linen, wheel chairs, and general supplies and equipment.

B. Storage buildings on the premises shall meet the building codes requirements regarding distance from the licensed building. Storage in buildings other than on the facility premises shall be secure and accessible. An appropriate controlled environment shall be provided if necessary for storage of items requiring such an environment.

C. In mechanical rooms used for storage, the stored items shall be located away from mechanical equipment and shall not be a type of storage that might create a fire or other hazard. (I)

D. Supplies and equipment shall not be stored directly on the floor. Supplies and equipment susceptible to water damage and/or contamination shall not be stored under sinks or other areas with a propensity for water leakage.

E. There shall be a soiled linen storage room which shall be designed, enclosed, and used solely for that purpose, and provided with mechanical exhaust directly to the outside.

2611. Telephone Service.

A. At least one (1) telephone shall be available on each floor of the facility with at least one (1) active main or fixed-line telephone service available.

B. At least one (1) telephone shall be provided by the facility on each floor for staff members and volunteers to conduct routine business of the facility and to summon assistance in the event of an emergency. Patients shall have telephone privacy.

2612. Location.

A. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. The facility shall have a parking area to reasonably satisfy the needs of patients, staff members, volunteers, and visitors.

C. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

2613. Outdoor Area.

A. Outdoor areas where unsafe, unprotected physical hazards exist shall be enclosed by a fence or a natural barrier of a size, shape, and density that effectively impedes travel to the hazardous area. (I)

B. Mechanical or equipment rooms that open to the outside of the facility shall be kept protected from unauthorized individuals. (II)

SECTION 2700 – SEVERABILITY

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect as if such invalid portions were not originally a part of these regulations.

SECTION 2800 – GENERAL

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

As noted in the Fiscal Impact Statement for Senate Bill 354 requested by the Senate Medical Affairs committee, the Department estimates an expenditure impact of nine thousand thirty-nine dollars ($9,039) in operating expenses, with an additional expenditure of one thousand twelve dollars ($1,012) in the first year for office equipment. However, the Office of Revenue and Fiscal Affairs anticipates that the Department will accomplish these tasks within the current Other Funds spending authority for the facility licensing program.

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: New Regulation 61-125, Standards for Licensing Crisis Stabilization Unit Facilities.

Purpose: The purpose of this regulation is to establish a process of licensing and regulating Crisis Stabilization Unit Facilities ("CSUs"). These facilities, operated by the S.C. Department of Mental Health ("SCDMH"), or in partnership with SCDMH, provide a short-term residential program offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week.

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

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 regulation. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Department personnel will take appropriate steps to inform the regulated community of the new regulation and any associated information.

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

This regulation is necessary to execute Act No. 10 amending Article 3 of Chapter 7, Title 44 requiring the Department to license and regulate Crisis Stabilization Unit Facilities. These facilities provide a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week.

DETERMINATION OF COSTS AND BENEFITS:

As noted in the Fiscal Impact Statement for Senate Bill 354 requested by the Senate Medical Affairs committee, the Department estimates an expenditure impact of nine thousand thirty-nine dollars ($9,039) in operating expenses, with an additional expenditure of one thousand twelve dollars ($1,012) in the first year for office equipment. However, the Office of Revenue and Fiscal Affairs anticipates that the Department will accomplish these tasks within the current Other Funds spending authority for the facility licensing program. CSU licensees will pay a licensure fee of ten dollars ($10.00) per licensed bed or seventy-five dollars ($75.00), whichever is greater.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The regulation seeks 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. Without this regulation, there would be no mechanism to license and regulate Crisis Stabilization Unit Facilities.

Statement of Rationale:

The Department promulgated this regulation to establish licensure and regulatory requirements for Crisis Stabilization Unit Facilities. These facilities provide a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week.