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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
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.

## **2022 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

## **REPRODUCING OFFICIAL DOCUMENTS**

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

## **PUBLIC INSPECTION OF DOCUMENTS**

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

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

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

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

## **EMERGENCY REGULATIONS**

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

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

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

## SUBSCRIPTIONS

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The history, status, and full text of these regulations are available on the  
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<b>DOC. NO.</b>	<b>RAT. NO.</b>	<b>FINAL ISSUE</b>	<b>SUBJECT</b>	<b>EXP. DATE</b>	<b>AGENCY</b>	<b>HOUSE COMMITTEE</b>	<b>SENATE COMMITTEE</b>
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## **2 EXECUTIVE ORDERS**

### **Executive Order No. 2022-02**

**WHEREAS**, despite the diligent efforts of parents, teachers, and school administrators, it is axiomatic that the 2019 Novel Coronavirus (“COVID-19”) pandemic has negatively impacted the mental health and social and emotional wellbeing of many students and children in South Carolina; and

**WHEREAS**, according to recent studies, mental-health-related emergency department visits among adolescents increased by 31% in 2020, as compared to 2019, and in February and March of 2021, emergency department visits for suspected suicide attempts were 51% higher among girls between the ages of 12 and 17 than during the same period in 2019; and

**WHEREAS**, the Department of Mental Health (“DMH”) employs master’s level mental-health clinicians to provide mental-health assessment, intervention, and treatment services on site in South Carolina’s public schools (“School Mental Health Services Program”); and

**WHEREAS**, DMH has reported that it currently provides mental-health clinicians through the School Mental Health Services Program to fewer than 50% of the State’s public schools; and

**WHEREAS**, DMH has also indicated that over 80% of children receiving services under the School Mental Health Services Program are funded through the Medicaid program; and

**WHEREAS**, after accounting for any available and applicable insurance coverage, DMH “balance bills” families for any additional or remaining costs associated with services provided to a student, which may disincentive utilizing the School Mental Health Services Program; and

**WHEREAS**, the State must ensure that its investment in the mental health and wellbeing of South Carolina’s children is readily available to, and fully accessible by, those children and families in need of such services; and

**WHEREAS**, in view of the foregoing circumstances, the undersigned has determined that it is necessary and appropriate for the State to take proactive action to analyze and evaluate the mental-health services provided to South Carolina’s children, particularly in the State’s schools, and to consider and explore any opportunities to improve the same; and

**WHEREAS**, article IV, section 17 of the South Carolina Constitution provides that “[a]ll State officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices, agencies, and institutions, including itemized accounts of receipts and disbursements”; and

**WHEREAS**, section 1-1-840 of the South Carolina Code of Laws, as amended, similarly authorizes the Governor to “call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare”; and

**WHEREAS**, section 1-3-10 of the South Carolina Code of Laws, as amended, also requires that “[t]he departments, bureaus, divisions, officers, boards, commissions, institutions and other agencies or undertakings of the State, upon request, shall immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities”; and

**WHEREAS**, for the aforementioned and other reasons, the undersigned has determined that it is necessary and appropriate for the State to conduct a comprehensive review and analysis of DMH’s School Mental Health Services Program, which shall include evaluating those services currently provided, identifying any barriers to access, considering any opportunities for improvement, and determining the most effective manner in which to utilize existing funds and any additional funds or resources that may be available.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

**Section 1. Review of School Mental Health Services Program**

A. I hereby authorize and direct the Department of Health and Human Services (“DHHS”) to perform a comprehensive review and analysis of the DMH’s School Mental Health Services Program, which shall, *inter alia*, assess the availability of such services to children in the State’s schools, identify any barriers to access, and determine the most effective manner in which to utilize existing funds and any additional funds or resources that may be available. DHHS shall provide recommendations it deems appropriate for improving the School Mental Health Services Program.

B. Pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, and in furtherance of the principles, considerations, and initiatives set forth above, I hereby direct DMH to cooperate with, accommodate, and assist DHHS in conducting the aforementioned review and analysis and to provide DHHS with any and all data, information, documents, or materials requested by DHHS in connection with the same.

**Section 2. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 12th DAY OF JANUARY, 2022.**

**HENRY MCMASTER  
Governor**

## 4 EXECUTIVE ORDERS

### Executive Order No. 2022-27

**WHEREAS**, the State of South Carolina has significant interests in maintaining and enhancing the State's cybersecurity ecosystem and cyber-related economic sector; and

**WHEREAS**, on April 19, 2017, the undersigned issued Executive Order No. 2017-08, establishing the South Carolina Critical Infrastructure Cybersecurity ("SC CIC") Executive Oversight Group to develop, execute, and implement a comprehensive program and operational effort to evaluate, enhance, and protect the State's critical infrastructure and key resources and to protect the same from sophisticated cyber threats, incidents, or attacks so as to preserve the health, safety, and well-being of South Carolina's citizens and businesses; and

**WHEREAS**, in addition to protecting critical infrastructure and key resources from sophisticated cyber threats and criminal activities, it is imperative that the State simultaneously explore broader opportunities to develop and strengthen the statewide cybersecurity ecosystem by facilitating further expansion of existing cyber-related industries, establishing a set of aligned actions to prioritize additional workforce development in this critical sector, and identifying, encouraging, and incentivizing new cyber-related investment in South Carolina; and

**WHEREAS**, in recognition of the aforementioned considerations and opportunities, the undersigned identified a need for additional collaboration among key stakeholders and the development and implementation of a statewide effort to coordinate the various cyber-related interests, plans, and approaches so as to improve shared situational awareness, increase resource efficiency, and promote unity of effort; and

**WHEREAS**, the undersigned recently engaged with the South Carolina Department of Commerce ("Department of Commerce") and the University of South Carolina to commission a preliminary assessment of South Carolina's cybersecurity ecosystem, titled the *South Carolina Cybersecurity Ecosystem Study*; and

**WHEREAS**, the *South Carolina Cybersecurity Ecosystem Study* determined that median wages for cybersecurity workers in South Carolina range between 34% and 240% higher than the median wage in the State, that the average unemployment rate for individuals employed in the cyber-related sector in South Carolina is one-third lower than the state average, and that South Carolina's economic activity and anticipated growth will necessitate nearly 6,000 new cybersecurity workers over the next ten years; and

**WHEREAS**, in light of the foregoing, the undersigned has determined that is necessary and appropriate to take additional proactive action to formalize the ongoing efforts to enhance the State's cybersecurity ecosystem, and the measures set forth herein are intended to facilitate the development and implementation of this collaborative statewide initiative and to provide for coordination of the same by the Department of Commerce.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

#### **Section 1. Formalizing South Carolina Cybersecurity Ecosystem Coordination Initiative**

A. In furtherance of the State of South Carolina's significant interests in developing, advancing, and implementing a statewide initiative to strengthen South Carolina's cybersecurity ecosystem by increasing collaboration, cooperation, and communication among key stakeholders and prioritizing cyber-related workforce and economic development, I hereby authorize and direct the Department of Commerce to undertake the following actions and initiatives:

1. Coordinate and direct implementation of a strategic statewide initiative and collaborative effort involving critical stakeholders across the State’s cyber ecosystem—including private industry, nonprofits, academia, and federal, state, and local government entities—designed to advance the principles, considerations, and goals detailed herein, to include assessing and expanding South Carolina’s cyber-related workforce and economic development activities and enhancing the competitive standing of South Carolina’s cybersecurity ecosystem and cyber-related sector relative to other States.

2. Collaborate with public and private partners and stakeholders to develop a strategic plan to promote awareness and understanding of this initiative, solicit support and resource provision, and facilitate unity and efficiency of effort.

3. Coordinate with the SC CIC Executive Oversight Group and other agencies, departments, or entities, as necessary and appropriate, to explore potential opportunities for developing a cyber-related public awareness and resource program to assist non-critical infrastructure organizations, entities, and individuals.

4. Evaluate, in cooperation with the South Carolina Department of Revenue and any other relevant and applicable state or local agencies, departments, or entities, as necessary and appropriate, the effectiveness of existing economic development mechanisms, assess the potential application of the same to this initiative and future cyber-related investments in this State, and consider whether additional economic development mechanisms or incentives may further advance South Carolina’s interests related to the cybersecurity ecosystem.

5. Collaborate with state and local education and workforce-development agencies, departments, or entities, as necessary and appropriate, regarding the potential development and implementation of cyber-related pilot programs.

6. Establish and monitor measures of performance and effectiveness of the foregoing activities and initiatives.

B. Pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, and in furtherance of the principles, considerations, and initiatives set forth above, I hereby authorize and direct any state agencies, departments, entities, or officials called upon for assistance by the Department of Commerce to cooperate with, accommodate, and assist the Department of Commerce in conducting or performing the activities required by this Section or otherwise undertaken to advance the initiative formalized herein and to provide the Department of Commerce with any and all data, information, documents, or materials requested by the Department of Commerce in connection with the same.

## **Section 2. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of

## **6 EXECUTIVE ORDERS**

this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 9th DAY OF SEPTEMBER, 2022.**

**HENRY MCMASTER  
Governor**

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
OFFICE OF THE STATE ENGINEER**

**NOTICE OF GENERAL PUBLIC INTEREST**

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(B).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30 requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

Pursuant to Section 1-34-30(A), the State Engineer published in the June 2022 issue of the State Register, notice of proposed adoption of the below listed codes. Having received no comments within 60 days of publication, the below listed codes are promulgated without amendment, effective January 1, 2023. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual for Planning and Execution of State Permanent Improvements.

International Building Code (IBC), 2021 Edition with SCBC modifications  
 International Existing Building Code (IEBC), 2021 Edition  
 International Fire Code (IFC), 2021 Edition with SCBC modifications  
 International Fuel Gas Code (IFGC), 2021 Edition with SCBC modifications  
 International Mechanical Code (IMC), 2021 Edition with SCBC modifications  
 International Plumbing Code (IPC), 2021 Edition with SCBC modifications  
 International Private Sewage Disposal Code (IPSDC), 2021 Edition  
 International Property Maintenance Code (IPMC), 2021 Edition  
 International Residential Code for One and Two Family Dwellings (IRC), 2021 Edition with SCBC modifications  
 International Wildland – Urban Interface Code (IWUIC), 2021 Edition  
 International Code Council Performance Code (ICCPC), 2021 Edition  
 International Swimming Pool and Spa Code (ISPSC), 2021 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.  
 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor  
 Washington, DC 2001-2070

National Electrical Code (NEC) [NFPA-70], 2020 Edition with SCBC modifications

The following organization issued the above listed nationally recognized code:

National Fire Protection Association  
 1 Batterymarch Park  
 Quincy, MA 02169-7471

**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 **September 23, 2022**, for the following project(s). After the application is deemed complete, affected persons will be notified that the review

## 8 NOTICES

cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

### **Affecting Florence County**

#### **Medical University Hospital Authority d/b/a MUSC Health Florence Medical Center**

Purchase of a da Vinci Xi robotic surgical system at a total project cost of \$2,652,572.

#### **Medical University Hospital Authority d/b/a MUSC Health Florence Medical Center**

Relocation of an existing outpatient infusion center from the day hospital to a suite in an adjacent medical office building at MUSC Health Florence Medical Center at a total project cost of \$247,100.

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 **September 23, 2022**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to 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) 545-4200 or email [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

### **Affecting Florence County**

#### **Medical University Hospital Authority d/b/a MUSC Health Florence Rehabilitation Center**

Relocation of 40 inpatient rehabilitation beds from the Cedar Street Campus to MUSC Health Florence Medical Center and decrease 46 acute care beds at MUSC Health Florence Medical Center for a total of 264 acute care beds and a total of 40 rehabilitation beds at a total project cost of \$3,270,000.

### **Affecting Georgetown County**

#### **Georgetown Hospital Systems d/b/a Tidelands Georgetown Memorial Hospital**

Purchase of a da Vinci XI robotic surgical system at a total project cost of \$2,033,000.

### **Affecting Greenville County**

#### **Prisma Health-Upstate d/b/a Greenville Memorial Hospital**

Purchase of a da Vinci Xi robotic surgical system at a total project cost of \$2,148,780.

#### **Prisma Health-Upstate d/b/a Hillcrest Hospital**

Purchase of a da Vinci Xi robotic surgical system at a total project cost of \$2,148,780.

### **Affecting York County**

#### **Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center**

Purchase of a Globus Medical-Excelsius GPS Robotic Navigation System at a total project cost of \$ 2,688,088.

## **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

### **NOTICE OF GENERAL PUBLIC INTEREST**

#### **NOTICE OF PUBLIC COMMENT PERIOD FOR SOUTH CAROLINA 2022 ANNUAL MONITORING NETWORK 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 opportunity to comment on a proposed addendum to the 2022 South Carolina

Annual Ambient Air Monitoring Network Plan (Network Plan) to meet obligations to the U.S. Environmental Protection Agency (EPA), and provide documentation of the establishment and maintenance of an air quality surveillance system that consists of a network of state or local air monitoring stations (SLAMS) that includes federal reference method (FRM) and federal equivalent method (FEM) monitors that are part of SLAMS, national core multipollutant monitoring stations (NCore), chemical speciation network (CSN), and special purpose monitor (SPM) stations. The proposed addendum to the Network Plan is available for public inspection and comment for 30 days prior to submission to the EPA to include any received comments. To be considered, the Department must receive comments no later than 5:00 p.m. on October 24, 2022, the close of the comment period.

The Department is also providing the interested public with the opportunity to request a public hearing on the Network Plan. If requested, the Department will hold a public hearing on November 9, 2022, at 10:00 a.m., in Room 2151 of the Sims Building, 2600 Bull Street, Columbia, South Carolina. In the event that a requested public hearing cannot be held in person due to the COVID-19 guidelines restricting in-person meetings, the public hearing will be held using an alternative method that provides the public the ability to participate remotely. 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 October 24, 2022, the Department will cancel the public hearing. If the public hearing will be held remotely using an alternative method, or if the Department cancels the public hearing, then the Department will notify the public and provide instructions for accessing any remote public hearing (if a hearing is requested) at least one week prior to the scheduled hearing via the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>. Interested persons may also contact G. Renee' Madden, Air Regulation and Data Analysis Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; via phone at (803) 898-3822; or email at [maddengr@dhec.sc.gov](mailto:maddengr@dhec.sc.gov) for more information or to find out if the Department will hold the public hearing. A copy of the proposed addendum to the 2022 South Carolina Annual Ambient Air Monitoring Network Plan is also located on the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>

**Synopsis:**

In October 2006 and in April 2016, the EPA published requirements for an annual monitoring network plan. This Network Plan, as required and described in 40 CFR Part 58.10, Annual Monitoring Network Plan and Periodic Network Assessment, must contain the following information for each monitoring station in the network.

Any network modifications to SLAMS networks are subject to the approval of the EPA Regional Administrator, who shall approve or disapprove the plan within 120 days of submission of a complete plan to the EPA. The 2022 South Carolina Annual Ambient Air Monitoring Network Plan that covers the eighteen-month period from July 1, 2022, through December 31, 2023, was submitted to the EPA on July 1, 2022. The Department is proposing this addendum to include notification of discontinuation of precipitation monitoring at the Cape Romain and Chesterfield monitoring sites and the request for EPA concurrence for the addition of PM monitoring at the Coastal Carolina monitoring site.

## 10 DRAFTING NOTICES

### DEPARTMENT OF CONSUMER AFFAIRS

#### CHAPTER 28

Statutory Authority: 1976 Code Sections 37-2-307(E), 37-6-104, and 37-6-506

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

The South Carolina Department of Consumer Affairs proposes to promulgate Regulation 28-75 to provide guidance on motor vehicle sales contracts closing fees. Interested parties are invited to present their views in writing by mail to Kelly Rainsford, Deputy Administrator/General Counsel, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250 or by e-mail to [KRainsford@scconsumer.gov](mailto:KRainsford@scconsumer.gov). To be considered, comments must be received no later than 5:00 p.m. October 24, 2022, the close of the drafting comment period.

#### **Synopsis:**

Section 37-2-307 provides that a motor vehicle dealer may charge a closing fee if the dealer files it with the Department, pays the filing fee, includes it in the advertised price of the motor vehicle, discloses it on the sales contract, and displays it in a conspicuous location in the dealership. It further provides that if the maximum closing fee the dealer intends to charge exceeds \$225.00 per vehicle, the Department may review the amount for reasonableness using the criteria provided in Section 37-2-307(C)(3). The Department proposes to set forth parameters for determining reasonableness and provide other guidance regarding the filing process and displaying the fee in the dealership.

The regulation will require legislative review.

### DEPARTMENT OF EMPLOYMENT AND WORKFORCE

#### CHAPTER 47

Statutory Authority: 1976 Code Sections 41-27-510, 41-35-720, and 41-35-760

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

The South Carolina Department of Employment and Workforce proposes to amend R.47-55, Representation before Appeal Tribunal and the Appellate Panel. Interested persons may submit comments to Ellen Andrews-Morgan, Director of Governmental Affairs, SC Department of Employment and Workforce, P.O. Box 995, Columbia, SC 29202 or by emailing [RegulationComments@dew.sc.gov](mailto:RegulationComments@dew.sc.gov).

#### **Synopsis:**

R.47-55 describes how a party may be represented before an Appeal Tribunal or the Appellate Panel. The Department proposes amending this regulation to clarify who can represent individuals, businesses, and other entities before the Appeal Tribunal and Appellate Panel. The Department may add text to this regulation to distinguish, for the purposes of representation, between unemployment insurance benefit proceedings and unemployment insurance tax proceedings. The proposed amendment may also include corrections for clarity and readability, grammar, punctuation, codification, and overall improvement of the text of the regulation.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**CHAPTER 10**

Statutory Authority: 1976 Code Section 40-1-50

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation proposes to add to, amend or repeal fees within the fee schedules for certain boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulations. The affected section will be Regulations 10-2. Interested persons may submit comments to Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

**Synopsis:**

South Carolina Code Section 40-1-50(D) requires the Director of the South Carolina Department of Labor, Licensing and Regulation to assess, collect and adjust fees on behalf of each board and commission to ensure that they are sufficient but not excessive to cover the expenses incurred, including the total of the direct and indirect costs to the State, for the operations of each respective board or commission. The Director has conducted a comprehensive review of each board and commission's finances and has concluded that fee adjustments are required for the following boards and commissions: The Board of Accountancy. These fee schedules will be further amended to add, amend or remove any other board or commission fees as necessary.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**CHAPTER 10**

Statutory Authority: 1976 Code Sections 40-1-50 and 40-5-80

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation proposes to add a regulation for corporate self-representation at hearings before the Department's professional and occupational licensing boards. Interested persons may submit comments to Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation proposes to add a regulation allowing certain persons not licensed to practice law in South Carolina to appear and represent clients before its professional and occupational licensing boards pursuant to *In Re Unauthorized Practice of Law Rules*, 309 S.C. 304, 422 S.E.2d 123 (1992). The regulation would permit a party who is not a natural person, such as a business, to represent itself in a hearing before a licensing board without an attorney admitted to practice in the state through an officer, agent, or employee, including in-house attorneys possessing Limited Certificates of Admission pursuant to Rule 405, SCACR.

Legislative review of this amendment is required.

## 12 DRAFTING NOTICES

**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123  
Statutory Authority: 1976 Code Section 50-11-2200

**Notice of Drafting:**

The South Carolina Department of Natural Resources (SCDNR) proposes to amend Regulation 123-210, “Term and Conditions for the Public’s Use of State Lakes and Ponds Leased by the Department of Natural Resources.” The purpose of the proposed action is to establish and revise the terms and conditions for the public use of lakes leased by the S.C. Department of Natural Resources. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife and Freshwater Fisheries Division, South Carolina Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

The amended Regulations will provide for the closure of Lake Edwin Johnson in Spartanburg County to allow for restocking and for the reopening of Dargan’s Pond when conditions allow for pending repairs.

The proposed changed will require legislative review.

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

**Notice of Drafting:**

The Public Service Commission of South Carolina is conducting a formal review of its South Carolina Code of State Regulations Chapter 103, Article 8, Practice and Procedure. Interested persons may submit comments to the Public Service Commission, Clerk’s Office, 101 Executive Center Drive, Suite 100, Columbia, South Carolina 29210. Please reference Docket Number 2022-300-A. To be considered, comments must be received no later than 4:45 p.m. on Tuesday, November 1, 2022.

**Synopsis:**

S.C. Code Ann. Section 1-23-120(J) states, in part, “Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection (H) are not subject to this review.”

The Public Service Commission of South Carolina, in compliance with S.C. Code Ann. Section 1-23-120(J), is in the process of continuing its review of Chapter 103, Article 8, Practice and Procedure, South Carolina Code of State Regulations. The Public Service Commission Staff opened Docket No. 2020-247-A on Wednesday, October 14, 2020, and has publicly noticed and held workshops regarding the Article 8, Practice and Procedure Regulations. Interested stakeholders participated in these workshops and provided written comments which can be viewed in Docket No. 2020-247-A.

The Public Service Commission Staff intends to file proposed regulations which contain recommended changes to the Commission’s Article 8, Practice and Procedure Regulations.

Legislative review of this proposal will be required.

Document No. 5134  
**SOUTH CAROLINA AERONAUTICS COMMISSION**  
 CHAPTER 4

Statutory Authority: 1976 Code Sections 55-1-1 et seq., 55-5-80 (A), 55-5-80 (N), and 55-5-280 (D)

- 4-1. Definitions. (New)
- 4-2. Requirements, Limitations, and Eligibility. (New)
- 4-3. Capital Improvement Program. (New)
- 4-4. Airport Grant Program. (New)
- 4-5. South Carolina Aeronautics Commission Grant Assurances. (New)
- 4-6. Request for Review. (New)
- 4-7. Purpose and Applicability. (New)
- 4-8. Airport Maps and Master Planning. (New)
- 4-9. Airport Master Plans. (New)
- 4-10. Zoning Required. (New)
- 4-11. Process for Land Use Review. (New)
- 4-12. Land Use Decisions of Governing Bodies Must Consider and Respond to the Division’s Comments. (New)
- 4-13. Notice to the Division. (New)
- 4-14. Enforcement and Legal Action. (New)
- 4-15. Private Airport Approval. (New)
- 4-16. Variance. (New)

**Preamble:**

The South Carolina Aeronautics Commission developed Regulation 4-1 through 4-16 to establish uniform procedures for grants from the State Aviation Fund and for the protection of public investment in public use airports and airport property from obstructions, safety hazards, and incompatible land uses in close proximity to such airports.

Section by Section Discussion:

Regulation Number	Type of Change	Purpose
4-1	New - Addition	Adds uniform definitions to be applied in all of the regulations
4-2	New - Addition	Addresses requirements, limitations, and eligibility for grants from the State Aviation Fund
4-3	New - Addition	Addresses requirements for public use airports to develop a Capital Improvement Plan
4-4	New - Addition	Outlines the type and scope of airport grants that are available from the State Aviation Fund
4-5	New - Addition	Describes the grant assurances that are required for State Aviation Fund grant recipients
4-6	New - Addition	Request for review and reconsideration of applicants who are denied Aviation Fund grants
4-7	New - Addition	Describes the scope, authority, and general requirements for the protection of airports and airport property from obstructions, addresses local government zoning authority to address incompatible

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		activities near airports
4-8	New - Addition	Addresses the creation of airport maps and land use planning
4-9	New - Addition	Addresses requirements for Airport Master Plans
4-10	New - Addition	Addresses statutory requirement for zoning near airports
4-11	New - Addition	Codifies existing procedures for land use review near airports
4-12	New - Addition	Addresses statutory requirement for local governments to respond to comments by the Division of Aeronautics
4-13	New - Addition	Addresses the statutory requirement to notify the Division of Aeronautics of proposed land use or zoning changes near airports
4-14	New - Addition	Outlines enforcement and legal action allowed by Title 55
4-15	New - Addition	Sets forth procedure for approval of private airports near public use airports
4-16	New - Addition	Provides for a variance procedure
Appendices A-C	New - Addition	Incorporates FAA guidance into review of compatible and incompatible land uses surrounding airports

The Notice of Drafting was published in the *State Register* on July 22, 2022.

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

Should a hearing be requested pursuant to Section 1-23-110 (A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the conference room at the South Carolina Aeronautics Commission at 2553 Airport Boulevard, West Columbia, South Carolina on October 26, 2022 at 2:00 p.m. Written comments may be directed to Ericka Thomas, Attn: Regulatory Development, South Carolina Aeronautics Commission, 2553 Airport Boulevard, West Columbia, South Carolina 29170 no later than 5:00 p.m., October 24, 2022. If a qualifying request pursuant to Section 1-23-110 (A)(3) is not timely received, the hearing will be cancelled.

### Preliminary Fiscal Impact Statement:

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

### Statement of Need and Reasonableness:

These regulations are authorized by Sections 55-1-1 et seq., 55-5-80 (A) and (N), and 55-5-280 (D) of the Code of Laws, 1976, as amended. The regulations address uniform procedures for grants from the State Aviation Fund and statutorily mandated review of obstructions, safety, and land use compatibility in the vicinity of public use airports in South Carolina. The regulations codify existing procedures that have been employed by the Aeronautics Commission since Title 55 of the Code of Laws was amended in 2012. These regulations are needed to promote standardization and uniformity and to protect public funds and public investment in public use airports in South Carolina.

DESCRIPTION OF REGULATION:

Purpose: The regulations govern the use of the State Aviation Fund and the protection of public investment in public use airports and airport property in South Carolina. In doing so, the regulation protects public funds and public investment in South Carolina airports. These regulations are authorized and anticipated through the legal authority cited herein.

Legal Authority: The Aeronautics Commission has the legal authority to enact and implement these regulations through Sections 55-1-1 *et seq.*, 55-5-80 (A), 55-5-80 (N), and 55-5-280 (D) of the Code of Laws, 1976, as amended.

Plan for Implementation: Since these regulations are based upon procedures that have been in place since shortly after Title 55 of the Code was amended in 2012, implementation is expected to align easily with those existing procedures that are currently utilized by the Commission, local governments, and the public. The regulations will take effect upon approval by the General Assembly and upon publication in the State Register.

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

The Aeronautics Commission is charged by Section 55-5-280 of the Code with the administration of the State Aviation Fund. The Commission and local governments are required under Section 55-5-80 (K) through 55-5-80 (O) of the Code to address potential obstructions, related aviation safety hazards to aircraft and persons and property on the ground, and safe and harmonious land uses in the vicinity of South Carolina's public use airports. The Commission developed procedures after Title 55 was amended in 2012 with the objective of engaging in this rulemaking to codify these procedures once they had gained public acceptance and were determined to be effective. The benefits of the regulation are to provide an efficient and uniform process for grants and disbursements from the State Aviation Fund, and the protection of public investment in public use airports in South Carolina through a process of notice and consultation with local governments. These procedures will also identify potential safety hazards near airports and address incompatible land uses in close proximity to South Carolina public use airports.

DETERMINATION OF COSTS AND BENEFITS:

There are no costs incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no adverse effect on the environment. Implementation of these regulations will improve the quality of the human environment by ensuring that land uses in the vicinity of public use airports in South Carolina are compatible with operations from such airports. The net effect of these regulations is to improve the human environment and public health by ensuring that development will avoid and minimize incompatible land uses near such airports.

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

If these regulations are not implemented, a potential effect on the human environment may result from incompatible development in the vicinity of public use airports that affects aviation safety and places the public in close proximity to aircraft operations. These regulations should improve the quality of the human environment.

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### Statement of Rationale:

Section 55-5-80 (A) requires the Aeronautics Commission to adopt these regulations. In particular, Section 55-5-280 (D) provides authority to “promulgate regulations governing the eligibility requirements for disbursements from the State Aviation Fund.” In addition, Section 55-5-80 (N) and Section 55-9-300 provides the Commission with the authority to enact regulations addressing hazards in the vicinity of public use airports in the state. These regulations also address the requirements of Section 55-13-5 that establish coordination between the Commission and local governments for the purpose of managing development in close proximity to such public use airports that could pose a safety hazard to the public. These regulations also protect public investment in airports and airport property.

### 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. 5124  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-025. Denial of Certification for Misconduct.

### Preamble:

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

### Section-by-Section Discussion:

37-025. This section defines misconduct for the denial of certification of law enforcement officers.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to further define misconduct for denial of certification for misconduct.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The proposed changes is to further define misconduct for denial of certification for misconduct.

DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

**Statement of Rationale:**

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

**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.

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Document No. 5125  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-073. Denial of Telecommunications Operator Certification for Misconduct. (New)

### **Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

### Section-by-Section Discussion:

37-073. This section defines misconduct for the denial of certification of telecommunications operators.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

### **Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

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

#### DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to further define misconduct for denial of certification for misconduct.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The proposed changes is to further define misconduct for denial of certification for misconduct.

**DETERMINATION OF COSTS AND BENEFITS:**

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

**UNCERTAINTIES OF ESTIMATES:**

Unknown, but minimal if they exist.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

Not applicable.

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

Not applicable.

**Statement of Rationale:**

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

**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. 5126  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-107. Final Decision by Law Enforcement Training Council.

**Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

**Section-by-Section Discussion:**

37-107. This section addresses procedure regarding Final Agency Decisions.

## **20 PROPOSED REGULATIONS**

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

### **Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

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

#### DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to amend the procedure for Final Agency Decisions.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The purpose of these proposed changes is to amend the procedure for Final Agency Decisions.

#### DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

#### UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

**Statement of Rationale:**

Revisions to these regulations are necessary to update procedures for Final Agency Decisions

**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. 5127  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-105. Contested Case Hearing.

**Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

Section-by-Section Discussion:

37-105. This section addresses contested case hearings.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

## **22 PROPOSED REGULATIONS**

### **Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

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

#### DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to amend the procedure for contested case hearings.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The purpose of these proposed changes is to amend the procedure for contested case hearings.

#### DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

#### UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

### **Statement of Rationale:**

Revisions to these regulations are necessary to update contested case procedures.

### **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. 5128  
**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.

**Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

Section-by-Section Discussion:

37-026. This section defines misconduct for the withdrawal of certification of law enforcement officers.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to further define misconduct for withdrawal of certification for misconduct.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The proposed changes is to further define misconduct for withdrawal of certification for misconduct.

### DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

### UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

### Statement of Rationale:

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

### 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. 5129  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-074. Withdrawal of Certification of Telecommunications Operators. (New)

### Preamble:

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 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 June 24, 2022.

### Section-by-Section Discussion:

37-074. This section defines misconduct for the withdrawal of certification of telecommunications operators.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 14, 2022, to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Bradley J. Young, Office of the General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on November 10, 2022. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 14, 2022, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The purpose of these proposed changes is to further define misconduct for withdrawal of certification for misconduct.

Legal Authority: 1976 Code Sections 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

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

The proposed changes is to further define misconduct for withdrawal of certification for misconduct.

DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit from more specific and defined definitions of misconduct for denial of certification for misconduct.

UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

### Statement of Rationale:

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

### 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. 5130  
**STATE BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-18-110, 59-18-310, 59-29-10, et seq., 20 U.S.C. 1232(g), and Pub. L. No. 114-95

43-234. Defined Program, Grades 9-12 and Graduation Requirements.

### Preamble:

The State Board of Education proposes to amend R.43- 234. Defined Program, Grades 9-12 and Graduation Requirements to include a one-half credit in financial literacy as a requirement for earning a South Carolina High School Diploma.

#### Section-by-Section Discussion:

Section I (A)	Added financial literacy as a one-half credit requirement.
Section I (A)	Reduced the required credits for electives from 7.0 to 6.5.
Section I (L)	Added implementation date and specified CTE Personal Finance course would satisfy the one-half credit requirement.

The Notice of Drafting was published in the *State Register* on July 22, 2022.

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

A public hearing will be held on November 8, 2022, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendment to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link [2022-21 Regulations Under Review By The State Board of Education](#).

Written comments should be submitted to Katie Nilges, Director of Governmental Affairs, Division of Legal Affairs, 1429 Senate Street, Columbia, SC 29201 or by e-mail to [Knilges@ed.sc.gov](mailto:Knilges@ed.sc.gov) on or before 5:00 p.m. on October 24, 2022.

### Preliminary Fiscal Impact Statement:

South Carolina Department of Education (SCDE) indicates that this bill will increase non-recurring General

Fund expenses of the agency by \$4,463,000 in FY 2021-22. Of this amount, \$18,000 is needed for a team to write the state standards, \$75,000 is needed for experts in the field to revise Page 3 of 5 course standards and to provide training, and \$20,000 is to provide awareness and to educate students, parents, and other stakeholders on the required personal finance course. The remaining \$4,900,000 is for materials at a cost of \$160 per teacher and \$150 per student for approximately 65,000 incoming ninth grade students. The textbooks would be funded on a six-year cycle.

**Statement of Need and Reasonableness:**

**DESCRIPTION OF REGULATION:**

Defined Program for Grades 9-12.

**Purpose:** State Board of Education (SBE) Regulation 43-234 (Reg. 43-234) establishes that each school board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. The regulation also stipulates that each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices.

**Legal Authority:** 1976 Code Sections 59-5-60, 59-18-110, 59-18-310, 59-29-10, et seq., 20 U.S.C. 1232(g), and Pub. L. No. 114-95.

**Plan for Implementation:** The proposed amendments will be incorporated within Reg. 43-234 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same way the existing regulation is implemented. School and district personnel will be informed of the new procedures through electronic correspondence.

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

This regulation is being amended at the direction of the General Assembly pursuant to Proviso 1.101. (SDE: Graduation Requirements) which reads: “of the funds appropriated or authorized herein, and pursuant to Section 59-39-100 of the 1976 Code, the Department of Education, through the State Board of Education, is directed to promulgate regulations to update the current graduation requirements to include within the existing credits a required half credit in personal finance. The regulation shall be submitted to the State Board of Education for first reading by September 30th.”

**DETERMINATION OF COSTS AND BENEFITS:**

See Preliminary Fiscal Impact Statement.

**UNCERTAINTIES OF ESTIMATES:**

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

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The proposed regulation has no effect on the environment or on public health.

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

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

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### Statement of Rationale:

To meet the requirements of Proviso 1.101 (SDE: Graduation Requirements) as established by the General Assembly, the State Board of Education proposes to amend R. 43- 234. Defined Program, Grades 9-12 and Graduation Requirements to include a one-half credit in financial literacy as a requirement for earning a South Carolina High School Diploma.

### 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. 5139

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

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

61-62. Air Pollution Control Regulations and Standards.

### Preamble:

Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department of Health and Environmental Control (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 United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60 and 63 include revisions to New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. 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 incorporate by reference federal amendments promulgated from January 1, 2021, through December 31, 2021.

The Department proposes amending R.61-62.70, Title V Operating Permit Program, at 70.5(c), to correct an error in an earlier amendment as required by the EPA to maintain compliance with federal law.

The Department also proposes additional changes to R.61-62, Air Pollution Control Regulations and Standards, for overall quality of regulatory text as deemed necessary to maintain compliance with federal law. These changes may include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement to the text of R.61-62.

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

The Department had a Notice of Drafting published in the June 24, 2022, *South Carolina State Register*.

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

Section	Type of Change	Purpose
R.61-62.60		
Subpart Kb	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart IIII	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart JJJJ	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
R.61-62.63		
Subpart A	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart YY	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart IIII	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart KKKK	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart VVVV	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart KKKKK	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart MMMMM	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart SSSSS	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
Subpart OOOOOO	Revision	Amended to incorporate federal revisions by reference for compliance with federal law.
R.61-62.70		
70.5(c)	Revision Technical Correction	Amended to correct an error in an earlier amendment as required by EPA for compliance with federal law. Amended to correct punctuation and number formatting for accuracy.

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

Interested persons may submit comment(s) on the proposed amendments to Holly Randolph of the Air Regulation, Data Analysis, and SIP Management Section, Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [randolhk@dhec.sc.gov](mailto:randolhk@dhec.sc.gov). To be considered,

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the Department must receive the comment(s) by 5:00 p.m. October 24, 2022, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 8, 2022, 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/Agenda>. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing.

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: R.61-62, Air Pollution Control Regulations and Standards.

Purpose: The EPA promulgated amendments to federal air quality regulations in 2021. The recent federal amendments include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; and revisions to federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2021, through December 31, 2021. The Department further proposes amending R.61-62.70, Title V Operating Permit Program, at 70.5(c), to correct an error in an earlier amendment as required by the EPA to maintain compliance with federal law. The Department also proposes to make corrections for internal consistency, clarification, and codification to improve the overall text as necessary for compliance with federal law.

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

Plan for Implementation: The amendments will take legal effect upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments. Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2021 included revised NSPS rules and NESHAPs for Source Categories. The Department is adopting these federal amendments to maintain compliance with federal law, as the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. These amendments are reasonable, as they promote consistency and ensure compliance with both state and federal regulations. The proposed amendments also include the correction of an error in an earlier amendment as required by the EPA to maintain compliance with federal law.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The amendments 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 federal delegation and 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 were not adopted in South Carolina.

**Text:**

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

Document No. 5136  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-340

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

**Preamble:**

Pursuant to S.C. Code Sections 44-7-110 et seq., the Department of Health and Environmental Control (“Department”) is required to adopt substantive and procedural regulations considered necessary by the Department and approved by the S.C. Board of Health and Environmental Control (“Board”) to carry out the Department’s Certificate of Need duties. The Department proposes amending R.61-15 for consistency with statutory requirements, to establish an electronic application process, to revise the application format and additional information required for the application process, and update exemption and non-applicability determination processes. The Department also proposes adding, removing, and modifying definitions contained within the regulation. The Department may update language and processes related to public hearings on Certificate of Need applications, the application and review process and related notifications, voidance and extension procedures, and periodic and final reporting requirements regarding issued Certificates of Need. Additionally, the proposed amendments may revise the project review criteria and the monetary thresholds that trigger a Certificate of Need review. The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements. The

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

The Department had a Notice of Drafting published in the June 24, 2022, South Carolina State Register.

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

Section	Type of Change	Purpose
<b>Entire Regulation</b>	Technical Correction	Amended each instance of “these regulations” to “this regulation” for clarity and consistency.
<b>Table of Contents</b>	Technical Correction Reorganization	Amended language and sections to reflect technical corrections and reorganization proposed in regulation text.
<b>Chapter 1 Title</b>	Revision	Amended language to reflect reorganization made in regulation text.
<b>101. Purpose.</b>	Revision	Amended to add the word “care” to make the terminology consistent throughout the regulation.
<b>Former 102. Applicability.</b>	Revision	Recodified this section for clarity. Amended to increase the threshold amounts consistent with LAC and recommendation and language from prior legislation.
<b>New 102. Definitions. (Former 103)</b>		
Affected Persons	Technical Correction Reorganization	Amended to reformat the definition and move part of the definition to Section 402.
Competing Applicants	Technical Correction Reorganization	Amended to reformat the definition.
Fees	Technical Correction Deletion	Amended to reformat the definition and delete the language that is clarified in other sections of the regulation.
Health Care Facility	Revision Technical Correction	Amended to reformat the definition and to revise language to reflect the statutory definition.
Health Service	Revision Technical Correction	Amended to reformat the definition and to revise language to reflect the State Health Plan definition.
Total Project Cost	Technical Correction	Amended to reformat the definition and to correct grammatical error.
Board Department	Technical Correction	Amended to reformat these definitions for readability.

Section	Type of Change	Purpose
<p>Like Equipment with Similar Capabilities</p> <p>Person</p> <p>Solely for Research</p> <p>To Develop When Used in Connection With Health Services</p> <p>To Offer When Used in Connection With Health Services</p>		
<p>Ambulatory Surgical Facility</p> <p>Arrangement for Financing</p> <p>Children and Adolescents in Need of Mental Health Treatment in a Residential Facility</p> <p>Facility for Chemically Dependent or Addicted Persons</p> <p>Freestanding or Mobile Technology</p> <p>Hospital</p> <p>Institutional Health Services</p> <p>Nursing Home</p> <p>Psychiatric Hospital</p> <p>Residential Treatment Facility for Children and Adolescents</p>	Deletion	Deleted these definitions because they are otherwise defined in the Certification of Need and Health Facility Licensure Act.
<p>Good Cause</p>	Deletion	Deleted because it is no longer defined in statute.
<p>Controlling Interest</p> <p>Indigent Care</p> <p>Majority Ownership</p> <p>Non-Capital Cost</p>	Addition	Added definitions to clarify their meaning in the context of this regulation for the regulated community.
<p><b>New 103. Applicability. (Former 102)</b></p>	Reorganization	Recodified this section from 102 to 103 for clarity.

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Section	Type of Change	Purpose
103.1.c.	Revision	Amended to increase the threshold amounts consistent with the LAC recommendation and language from prior legislation.
103.1.d.	Technical Correction	Amended to add the word “a” to make it consistent with statutory language.
103.1.e.	Revision	Amended to remove language that is no longer needed in regulation.
103.1.f.	Revision Technical Correction	Amended to increase the threshold amounts consistent with the LAC recommendation and language of prior legislation.
103.3.	Revision Technical Correction	Amended to add a word for consistency with statute and amended to remove language that is no longer needed in regulation. Further amended for clarification.
<b>104. Exemption Determinations.</b>		
104.1.a.	Technical Correction	Amended for consistency.
104.1.b.	Technical Correction	Amended for consistency.
104.1.c.	Revision	Amended to add language clarifying the requirements for an exemption.
104.2	Technical Correction	Amended for consistency.
104.3.	Revision	Amended to change timeframe from 12 months to 18 months to allow applicants more time for project implementation and further amended for clarity and consistency.
104.4.	Revision Technical Correction	Amended to increase threshold amounts, to add a word for clarification, and to update the regulation section numbers referenced therein.
<b>105. Determinations of Non-Applicability.</b>		
105.1.a.	Revision	Amended to update section number references.
105.1.b.	Revision	Amended to increase threshold amounts and to clarify and simplify language in line with LAC recommendation.
105.2	Technical Change	Amended for consistency.
105.3.	Revision	Amended to change timeframe

Section	Type of Change	Purpose
		from 12 months to 18 months to allow applicants more time for project implementation. Amended to change the word “proposal” to “project” for consistency.
105.4	Technical Change	Amended for consistency.
105.5.	Revision	Amended to change a particular division of the Department (“DHEC Division of Health Facilities Construction”) to the “Department” for clarity and consistency.
105.5.b.	Technical Correction	Amended to change semicolon to period.
<b>106. South Carolina Health Plan.</b>	Technical Correction	Amended to correct punctuation and number formatting.
<b>201. Public Notification.</b>	Reorganization Technical Correction	Recodified the section for consistency.
<b>202. Application.</b>	Deletion	Amended to remove language that is no longer needed in regulation.
<b>301. Submission of Application.</b>	Revision	Amended to further streamline the application process, to clarify when the filing fee must be submitted, and to update the name of the Department’s Bureau responsible for administering the CON program.
<b>302. Additional Information.</b>		
Former 302.1.	Deletion	Amended to remove language that is no longer needed in regulation.
New 302.1.	Revision Reorganization	Amended to add clarifying language and to recodify the section.
New 302.2.	Revision Reorganization	Amended to add clarifying language and to recodify the section.
New 302.3	Reorganization	Recodified the section.
<b>303. Payment of Filing and Application Fees.</b>		
303.1.	Technical Correction	Amended to correct capitalization and grammar.
New 303.2.	Reorganization	Amended to move language from the Definitions section regarding fee clarification.
New 303.3. (Former 303.2)	Technical Correction Reorganization	Recodified the section and corrected grammar for consistency.

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Section	Type of Change	Purpose
<b>304. Relative Importance Criteria.</b>		
304.2.	Revision	Amended to clarify review period.
<b>305. Review Time Frames.</b>		
305.1.	Revision	Amended to remove language that is no longer needed in regulation.
305.2.	Revision Reorganization	Amended to add language from former Section 305.2.a., to add language allowing for electronic notifications, and to correct grammar due to added language.
305.2.a. and b.	Reorganization Deletion	Moved language from 305.2.a to 305.2 for clarity and deleted 305.2.b because the language is no longer needed in regulation.
<b>306. Public Hearing.</b>	Technical Correction	Amended for corrected grammar and consistency.
<b>307. Department Review.</b>	Revision	Amended to clarify Department review
<b>New 308. Certificate of Need Issuance Fee. (Former 309)</b>	Reorganization Revision	Recodified Section 309 to former Section 308, added clarifying language, and amended to remove language that is no longer needed in regulation.
<b>New 309. Project Changes During Review Period. (Former 308)</b>	Revision Reorganization	Amended to add clarifying language and recodified the section.
<b>New 310. Validity of Certificate of Need Issued. (Former 311)</b>	Reorganization Technical Correction	Recodified the section, and corrected punctuation and capitalization.
<b>New 311. Prohibited Contact. (Former 312)</b>	Reorganization	Recodified the section.
<b>401. Appeals.</b>		
401.1.	Revision Technical Correction	Amended to clarify who may appeal a decision and to correct capitalization for consistency.
401.2	Revision	Amended to clarify who may file a request for final review in opposition to the staff decision on a Certificate of Need.
<b>402. [Reserved]</b>	Deletion	Section no longer needed in the regulation.
<b>501. Findings of the Department.</b>	Deletion	Amended to remove language that is no longer needed in regulation.
<b>New 501. Periodic Reports. (Former 502)</b>	Reorganization	Recodified Section 502 to Section 501.
<b>503. Distribution of</b>	Deletion	Amended to remove language

Section	Type of Change	Purpose
<b>Procedures Criteria.</b>		that is no longer needed in regulation.
<b>New 502. Review Under Applicable Plan. (Former 504)</b>	Reorganization	Recodified Section 504 to Section 502.
<b>601. Voidance and Extension of Certificates of Need.</b>	Revision Technical Correction	Amended to add language to clarify the voidance (matter of law) and to delete the inconsistent language. Amended to correct grammar and number formatting.
<b>602. Extension Request.</b>	Revision	Amended extension request submission requirements for clarity.
<b>603. Criteria for Extension.</b>	Technical Correction	Amended to correct capitalization.
<b>604. Non-Transferability of Certificate of Need.</b>	Revision Technical Correction	Amended to clarify controlling interest and majority ownership, to remove language not consistent with statute, and to correct grammar.
<b>605. Project Changes After Receipt of Certificate of Need.</b>	Technical Correction	Amended to correct grammar.
<b>607. Periodic Reporting of Certificate of Need Implementation.</b>		
607.1	Technical Correction	Amended to correct grammar.
607.3	Technical Correction Addition	Amended to correct punctuation, and to add “a listing of non-capital costs” to the requirements for the final completion report as recommended by the LAC.
<b>701. Penalties.</b>	Revision Technical Correction	Amended to clarify language, remove duplicative language, and to correct grammar.
<b>702. Reserved.</b>	Deletion	Deleted this section because it is not needed in the regulation.
<b>801. Applicability and Weighting.</b>	Revision Technical Correction	Amended to correct references to amended sections. Amended to correct number formatting.
<b>802. Criteria for Project Review.</b>		
802.2.b.	Revision	Amended to correct state agency reference.
802.3.	Revision Reorganization Technical Correction	Amended to remove language that is no longer needed in regulation, corrected punctuation, and recodified items.

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<b>Section</b>	<b>Type of Change</b>	<b>Purpose</b>
802.4.d through 802.12	Reorganization	Recodified these sections to new Section 802.7. based on public comments.
New 802.5. (Former 802.13)	Reorganization Technical Correction	Recodified former Section 802.13 to 802.5, and corrected grammar and punctuation.
New 802.6. (Former 802.14)	Reorganization	Recodified former Section 802.15 to 802.6.
New 802.7.a. through e. (Former 802.15-16)	Reorganization	Amended to combine former Sections 802.15 and 802.16 and recodify to 802.7.a through e based on public comments.
New 802.8 (Former 802.17)	Reorganization Technical Correction	Recodified former Section 802.17 to 802.8 and corrected punctuation.
802.18.	Deletion	Deleted language because it is in the application requirements.
New 802.10 (Former 802.20)	Reorganization Revision	Recodified former Section 802.20 to 802.10 and amended language for clarity, consistency, and accuracy.
New 802.11 (Former 802.21)	Reorganization Technical Correction	Recodified former Section 802.21 to 802.10 and corrected punctuation.
New 802.12-13 (Former 802.22-23)	Reorganization	Recodified former Sections 802.22-23 to 802.12-13.
New 802.13 (Former 802.24-25)	Reorganization	Combined former Sections 802.24-25 and recodified as new Section 802.13.
New 802.14 (Former 802.26 and 29)	Reorganization Addition	Combined former Section 802.26 and 802.29 and recodified as new Section 802.14. Changed subsection title to “Zoning and Site Suitability.”
802.27	Deletion	Amended to remove language that is no longer needed in regulation.
New 802.15 (Former 802.28)	Reorganization	Recodified former Section 802.28 to new Section 802.15.
802.30	Deletion	Deleted language because it is provided on the CON application.
New 802.16 (Former 802.31)	Reorganization Technical Correction	Recodified former Section 802.31 to new Section 802.16 and corrected for punctuation.
802.32	Deletion	Deleted language because it is provided on the CON application.
New 802.17 (Former 802.33)	Reorganization	Recodified former Section 802.33 to new Section 802.17.

Section	Type of Change	Purpose
New 802.18	Addition	Added quantitative quality of care metrics to the project review criteria to align with LAC recommendation.
Appendix	Deletion	Deleted Appendix to streamline the application and to align the regulation for implementation of electronic application process.

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

Interested persons may submit comment(s) on the proposed amendments to the Office of Policy and Communications; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; HQRegs@dhec.sc.gov; or the Public Comment Form at <https://forms.office.com/g/9VMEXLWtq0>. To be considered, the Department must receive the comment(s) by 5:00 p.m. on October 24, 2022, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 8, 2022, 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/Agenda>. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing.

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 Department does not anticipate the implementation of this regulation will require any additional resources. There is no anticipated additional cost to the Department or state due to any inherent requirements of this regulation. There are no external costs anticipated.

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

Purpose: The Department proposes to amend R.61-15, Certification of Need for Health Facilities and Services, for consistency with statutory requirements, to establish an electronic application process, to revise the application format and additional information required for the application process, and update exemption and non-applicability determination processes. The Department also proposes adding, removing, and modifying definitions contained within the regulation. The Department may update language and processes related to public hearings on Certificate of Need applications, the application and review process and related notifications, voidance and extension procedures, and periodic and final reporting requirements regarding issued Certificates of Need. Additionally, the proposed amendments may also revise the project review criteria and the monetary thresholds that trigger a Certificate of Need review. The proposed amendments may also include corrections for

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clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

Legal Authority: 1976 Code Sections 44-7-110 through 44-7-340.

Plan for Implementation: The amendments will take legal effect upon General Assembly approval and upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments. Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

R.61-15 has not been substantively revised since 2003 and needs to be updated to reflect current technology and industry standards. In February 2022, the Legislative Audit Council (LAC) issued *A Review of the S.C. Department of Health and Environmental Control Certificate of Need Program*, wherein the LAC provided a list of recommendations for the Certificate of Need program. The Department's Agency Response to the LAC report indicated initiating the promulgation process in 2022 to address the recommendations through regulatory revisions.

The LAC recommendations that the Department is addressing in this proposed revision include standardizing the information required for Certificate of Need applicants to ensure consistency in its evaluation process, requiring Certificate of Need applicants to provide information on net patient charges when project impact on patient charges is a factor in the evaluation process; requiring Certificate of Need applicants to report on non-capital expenses related to a project; and increasing the thresholds for equipment and capital expenditures for the Certificate of Need program and provide the adjustment of those thresholds pursuant to the Medical Care Index component of the Consumer Price Index.

The Department's proposed amendments are in line with the abovementioned LAC recommendations, and additionally include moving to a more streamlined and modernized application format and process, increasing the timeframes for the exemption and non-applicability determinations from 12 months to 18 months, and streamlining and consolidating the project review criteria from 33 criteria to 17 criteria. Overall, the Department's proposed amendments aim to increase flexibility and minimize the undue burden to the regulated community.

### DETERMINATION OF COSTS AND BENEFITS:

The Department anticipates the proposed amendments will decrease costs and increase benefits to the regulated community by improving the application process and increasing the monetary thresholds that trigger Certificate of Need review. The Department anticipates the proposed amendments will decrease the costs necessary to maintain the current Certificate of Need application and review processes. The Department anticipates the benefits will include increased time and resources to process and review Certificate of Need applications. The proposed amendments remove the requirement that Certificate of Need applications be submitted as paper applications and allow the Department to move towards implementation of an electronic application process.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties associated with the estimations beyond those normally inherent in estimating future costs and benefits.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-15 seek to improve the Certificate of Need application and review processes

involved in determining whether there is need for, among other items, construction or other establishment of a new health care facility. This supports the Department’s mission to improve the quality of life for all South Carolinians by protecting and promoting the health of the public and the environment.

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

It may be detrimental to the regulated community and public health if the proposed amendments to R.61-15 are not implemented because the Certificate of Need application process will continue to require the submission of paper copies and limit the Department’s ability to modernize and improve efficiencies in the process required prior to undertaking, among other items, the construction or other establishment of a new health care facility. This is detrimental to the accessibility of the Certificate of Need application process as well as to the new health care facility. There is no anticipated detrimental effect on the environment if the proposed amendments are not implemented.

**Statement of Rationale:**

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

R.61-15, Certification of Need for Health Facilities and Services, provides substantive and procedural regulations necessary to carry out the Department’s Certificate of Need duties. The Department proposes amendments to address the recommendations from the Legislative Audit Council’s February 2022, report, *A Review of the S.C. Department of Health and Environmental Control Certificate of Need Program*, that are within the Department’s authority to implement through regulatory change, to bring the regulation into alignment with statutory requirements, and to improve Department processes..

**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. 5135

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-55-10 et seq.

61-58. State Primary Drinking Water Regulations.

**Preamble:**

Pursuant to 1976 Code Sections 44-55-10 et seq., the Department of Health and Environmental Control (“Department”) proposes to amend R.61-58 to adopt federal regulations commonly referred to as the Lead and Copper Rule Revisions. These amendments were promulgated by the United States Environmental Protection Agency (“EPA”) in a final rule published in the *Federal Register* on January 15, 2021 (86 FR 4198). As proposed, the amendments will revise many aspects of the current regulations with respect to requirements for public water systems to monitor for lead and copper in drinking water, including requirements pertaining to sample site selection, monitoring procedures, corrosion control, and public education. In addition, these proposed amendments require public water systems to offer to sample lead in drinking water for schools and child care facilities in their service areas. The Department also proposes other changes to R.61-58 as deemed necessary to maintain compliance with federal law and improve the overall text of R.61-58, including corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling.

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

The Department had a Notice of Drafting published in the March 25, 2022, South Carolina State Register.

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

Section	Type of Change	Purpose
R.61-58.B	Addition, Revision, Reorganization	Adds several definitions and revises others to match federal amendments. Definitions recodified to reflect proposed amendments.
R.61-58.6.B	Addition	Adds requirements for public notification when the lead action level is exceeded.
R.61-58.6.E	Addition	Adds exceeding the lead action level to the list of violations or other situations requiring Tier 1 public notice and requires notice to the EPA Administrator.
Appendix A to R.61-58.6	Revision	Updates citations for lead and copper action level exceedances.
Appendix B to R.61-58.6	Revision	Revises health effects language for lead and revises health effects language related to the Revised Total Coliform Rule to correct errors in previous amendments to make the language consistent with federal regulations.
R.61-58.11.B	Revision	Revises general requirements for lead and copper in drinking water.
R.61-58.11.C	Revision	Revises the applicability of corrosion control treatment steps to small, medium-size, and large water systems.
R.61-58.11.D	Revision	Revises the description of corrosion control treatment requirements.
R.61-58.11.E	Revision	Revises treatment requirements for lead in source water.
R.61-58.11.F	Revision	Revises lead service line inventory and replacement requirements.
R.61-58.11.G	Revision	Revises lead and copper public education and supplemental monitoring and mitigation requirements.
R.61-58.11.H	Revision	Revises monitoring requirements for lead and copper in tap water.
R.61-58.11.I	Revision	Revises monitoring requirements

		for water quality parameters.
R.61-58.11.J	Revision	Revises monitoring requirements for lead and copper in source water.
R.61-58.11.K	Revision	Revises lead and copper analytical methods requirements.
R.61-58.11.L	Revision	Revises reporting requirements for lead and copper.
R.61-58.11.M	Revision	Revises recordkeeping requirements for lead and copper data.
R.61-58.11.N	Addition	Adds requirements for public water systems to offer to monitor lead in drinking water for schools in their service areas.
R.61-58.11.O	Addition	Adds small water system compliance flexibility for lead in drinking water.
R.61-58.12.C	Addition	Adds requirements to include instructions to access lead service line inventory and lead tap sampling results to a public water system's annual Consumer Confidence Report.
R.61-58.12.D	Revision	Revises the public health information language for lead that is to be included in a public water system's annual Consumer Confidence Report.
Appendix D. Consumer Confidence Reports: Regulated Contaminants	Revision	Revise the lead health effects language required in a public water system's annual Consumer Confidence Report
R.61-58.16.D	Revision	Revises the requirement for evaluation of the treatment component during a sanitary survey for ground water systems to include corrosion control treatment and water quality parameters as applicable.

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

Interested persons may submit comment(s) on the proposed amendments to Doug Kinard of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; kinarddb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on October 24, 2022, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 8, 2022, 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,

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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/Agenda>. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing.

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: R.61-58, State Primary Drinking Water Regulations.

Purpose: The Department proposes amending R.61-58 to adopt federal regulations commonly referred to as the Lead and Copper Rule Revisions to maintain compliance with federal regulations and maintain primary enforcement authority for the Safe Drinking Water Act in the state.

Legal Authority: 1976 Code Sections 44-55-10 et seq.

Plan for Implementation: The amendments will take legal effect upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments. Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

The adoption of these proposed amendments will allow the Department to maintain primary enforcement authority for the Safe Drinking Water Act in the state. The proposed amendments will comply with Title 40, Parts 141 and 142 of the Code of Federal Regulations (40 CFR 141 and 142). These proposed amendments update several aspects of the control of lead and copper in drinking water, to include sample site selection, monitoring procedures, corrosion control requirements, and public education requirements. The proposed amendments also require public water systems to offer to sample lead in drinking water for schools and child care facilities in their service areas.

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

These proposed amendments may result in a cost savings to the regulated community in that it will allow public water systems to correspond and interact with state regulators as opposed to federal regulators. There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions.

### **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:**

There are no anticipated effects on the environment from these proposed amendments. These proposed amendments provide an opportunity for enhanced public health protection by reducing the public's exposure to

lead in drinking water.

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

There will be no detrimental effect on the environment if these proposed amendments are not adopted. If the proposed revisions are not adopted, the intended reduction of the public’s exposure to lead in drinking water may not occur.

**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. 5137  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-9. Water Pollution Control Permits.

**Preamble:**

Pursuant to the South Carolina Pollution Control Act, S.C. Code Ann. 48-1-10 et seq., the Department of Health and Environmental Control (“Department”) establishes programs to regulate discharges from point sources, including concentrated animal feeding operations. The Department proposes amending R.61-9.122.23, Concentrated Animal Feeding Operations, for conformity with the current federal regulation in Title 40, Part 122 of the Code of Federal Regulations (40 CFR Part 122), Subpart B, Section 23, *Concentrated animal feeding operations*. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts this amendment from General Assembly review, as the Department proposes this amendment for compliance with federal law.

The Department had a Notice of Drafting published in the July 22, 2022, South Carolina State Register.

Section-by-Section Discussion of Proposed Amendments:

<b>Section</b>	<b>Type of Change</b>	<b>Purpose</b>
(a)	Revision	Amended to clarify references, permitting requirements, and feeding operations.
(b)(1)	Revision Reorganization	Amended for clarity; recodified items.
(b)(2)	Reorganization	Amended to add recodified (a)(1)(ii).
(b)(4)	Technical Correction	Amended to correct punctuation.
(b)(6)	Technical Correction	Amended to correct punctuation.
(b)(6)(ii)	Revision	Amended to clarify U.S. waters.
(b)(8)	Technical Correction	Amended to correct spelling.
(b)(9)	Technical Correction	Amended to correct punctuation and grammar.
(c)(1)	Revision Addition	Amended for clarity.

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(c)(2)	Revision	Amended to clarify U.S. waters.
(c)(3)	Revision Technical Correction	Amended to clarify U.S. waters and to correct punctuation.
(d)(1)-(2)	Revision	Amended to comply with federal law.
(e)	Revision	Amended to clarify U.S. waters.
(e)(1)-(2)	Addition	Added to comply with federal law.
(f)-(h)	Deleted	Deleted to replace with current federal law.
New (f)	Addition	Added permit coverage requirement to comply with federal law.
New (g)	Addition	Added as reserved to comply with federal law.
New (h)	Addition	Added procedures for permit coverage to comply with federal law.

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

Interested persons may submit comment(s) on the proposed amendment to Joseph M. Koon of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [koonjm@dhec.sc.gov](mailto:koonjm@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on October 24, 2022, 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 December 8, 2022, 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/Agenda>. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing.

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: R.61-9.122.23, Concentrated Animal Feeding Operations.

Purpose: The Department proposes amending R.61-9.122.23, Concentrated Animal Feeding Operations, to maintain consistency with the federal regulation at 40 CFR Section 122.23.

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

Plan for Implementation: The proposed amendment will take legal effect upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendment.

Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

The Department proposes to amend R.61-9.122.23 to maintain consistency with federal regulations and to improve regulatory clarity.

**DETERMINATION OF COSTS AND BENEFITS:**

Amending R.61-9.122.23 for consistency with federal regulations will increase the efficiency of processing facility applications, which will be a benefit to the regulated community and the state. There is no anticipated increase in costs to the state or its political subdivisions, or to the regulated community, resulting from these proposed revisions. It is anticipated that these proposed revisions will result in cost savings to 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.61-9.122 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:**

There is no anticipated detrimental effect on the environment and public health if the regulation is not implemented. Adoption of these proposed revisions will ensure consistency with federal requirements and provide continued protection of the environment and human health in accordance with updates to federal law.

**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. 5138

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61**

Statutory Authority: 1976 Code Sections 13-7-40 et seq.

61-64. X-rays (Title B).

**Preamble:**

Pursuant to S.C. Code Sections 13-7-40 et seq., the Department of Health and Environmental Control ("Department") promulgates, amends, and repeals regulations relating to the control of ionizing and nonionizing radiation, the qualifications of operators applying ionizing or nonionizing radiation to humans, and registration of radiation sources or devices or equipment utilizing these sources. The Department proposes comprehensive

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amendment to R.61-64, X-Rays (Title B). General areas of this revision include, but are not limited to, clarifying and simplifying the regulation, adding new definitions as required, deleting requirements that are no longer applicable, and ensuring the regulation is in alignment with the current statute. The Department may also amend requirements regarding registration, inspections, violations, enforcement, equipment, and mammography. The proposed amendments will also update vendor classes, add requirements for personnel security screening systems using x-ray, and clarify, organize, and update the Radiation Safety Officer requirements. The Department may also include changes such as corrections for readability, grammar, punctuation, codification, and other such regulatory text improvements. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department had a Notice of Drafting published in the February 25, 2022, South Carolina State Register.

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

<b>Section</b>	<b>Type of Change</b>	<b>Purpose</b>
<b>Entire Regulation</b>	Reorganization/Revision	Amended numbering in regulation for correct codification and clarity.
<b>Entire Regulation</b>	Technical Correction	Amended to correct grammatical errors, punctuation, and capitalization.
<b>Entire Regulation</b>	Technical Correction	Amended to correct references.
<b>Entire Regulation</b>	Technical Correction	Amended to use text and numerical symbols when any number is utilized. Amended to clarify deadlines in calendar days.
<b>Entire Regulation</b>	Technical Correction	Amended “these regulations” to “this regulation” for grammatical correctness.
<b>Entire Regulation</b>	Technical Correction	Amended to add “RHB” when referencing parts of this regulation.
<b>Statutory Authority</b>	Addition	To clarify appropriate S.C. Code of Laws authority.
<b>Table of Contents</b>	Reorganization/Revision	To reflect proposed organization and title amendments in regulation text.
<b>1.2. Prohibited Use.</b>	Addition/Revision	Amended to add exemptions for Hand-held Intraoral Equipment and Personnel Security Screening Systems. Amended language for licensed practitioner to be consistent with revised definition.
<b>1.3. Inspections.</b>	Addition/Revision	Amended to provide clarity related to records requests and added reference to the Atomic

		Energy and Radiation Control Act.
<b>1.4. Test and Surveys.</b>	Technical Correction	Amended to provide clarity for instrument calibrations.
<b>1.6. Additional Requirements.</b>	Revision/Reorganization	1.6.3 Amended to provide clarity and recodify equipment not covered in regulation. 1.6.4 was recodified to 3.3.
<b>1.7. Corrective Action Plan.</b>	Revision/Reorganization/Addition	Title amended for consistency with other Departmental regulations. Prior 1.7.1 was recodified to 1.8.2 and prior 1.7.4 was recodified to 1.13.2. Added clarification for determination of response adequacy.
<b>1.8. Enforcement.</b>	Revision/Deletion/Reorganization	Amended for consistency with other Departmental regulations.
<b>1.10. Records.</b>	Revision	Amended to provide clarity regarding records and inventory.
<b>1.11. Records and Reports of Misadministration.</b>	Revision/Addition	Amended title in 1.11.1 and added language regarding records based on stakeholder comments.
<b>1.12. Material False Statements.</b>	Deletion	Title was amended to provide clarity and prior 1.12.1 was deleted.
<b>1.13. Fines and Penalties.</b>	Revision/Deletion/Reorganization	Title amended for consistency with other Departmental regulations. Former 1.13.1 was recodified to 1.7.4. Former 1.13.2 was amended to provide clarity regarding the categories of severity levels. Former 1.13.2.2 – 1.13.4.3 were deleted as the sections reflect Department operating procedures and not regulatory language. (OGC please review) Former 1.7.4 recodified to 1.13.2 and penalty matrix was clarified. Former 1.13.4.2 recodified to 1.13.3 and clarified.
<b>2.3. Application and Review Fees.</b>	Revision	2.3.2 Amended to provide clarity regarding the current required fee. 2.3.3 amended to provide clarity regarding notice of vendor registration.

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<b>2.4. Facility Registration Approval.</b>	Revision	Amended to provide clarity regarding facility registration approval for in-state facilities and out-of-state facilities prior to installation of x-ray producing machines.
<b>2.5. Equipment Registration Requirements, User of X-ray Machines.</b>	Revision/Deletion	2.5.2 and 2.5.3 were deleted and recodified to new 2.6.
<b>2.6. Report of Change.</b>	Reorganization/Revision/ Addition/Deletion	Prior 2.5.2 and 2.5.3 recodified and amended to provide clarity regarding the reporting of changes to the Department.
<b>2.7. Registration Requirements – Servicing and Services (VENDOR).</b>	Revision/Addition/Technical Correction	2.7.1 Amended to provide clarity regarding vendor registration and registration exemptions. 2.7.2 Amended to correct grammatical errors, and provide clarity regarding registration application requirements, applicant certification, and application signature requirements. 2.7.4 and 2.7.5 Amended to add clarity regarding vendor registration. 2.7.6 Amended for consistency with this and other parts, and to provide clarity regarding vendor classification and services. 2.7.7 Amended to provide clarity regarding reporting changes to registration. 2.7.8 Amended to provide clarity regarding vendor classification and services, training and education requirements, and for consistency with other parts. 2.7.9 Amended to update reference to regulation.
<b>2.8. Vendor Obligation.</b>	Revision	2.8.1 Amended to provide clarity regarding sales and installation notifications. 2.8.2 Amended to provide clarity regarding vendor obligation to meet requirements. 2.8.3 Amended to provide clarity regarding maintenance and contents of records. 2.8.4 Amended to

		provide clarity regarding quality of records. 2.8.5 Amended to change “must” to “shall” for consistency.
<b>2.9. Out of State Facilities.</b>	Addition/Revision	2.9.1 Amended to provide clarity regarding requirements for out-of-state facility registration. 2.9.2 Amended to reference form provided by the Department.
<b>2.11. Annual Fees.</b>	Revision/Reorganization/Addition	2.11.1 Amended to clarify the assessment of the annual registration fee. Prior 2.10.4 regarding the instruction for payment recodified here. Amended to clarify the due date for payment of the fee. Amended to clarify the date the late fee will be required. Amended to clarify the date on which the registration will be revoked. Amended to change “suspended” to “revoked” for consistency. 2.11.2 Amended to change “machine” to “equipment” for consistency with other parts of the regulation. 2.11.3 amended to add new equipment types (X-ray Gauge and Personnel Security Screening System) to the fee schedule and update reference.
<b>3.1. Scope.</b>	Revision	Amended to provide clarity and consistency with other Departmental regulations.
<b>3.2. Implementation.</b>	Technical Correction	Added text indicating text of an abbreviation.
<b>3.3. Authority and Responsibility for the Radiation Protection Programs.</b>	Reorganization/Revision	Amended to ensure compliance with the regulation. Revised 3.3.3 to clarify radiation protection program requirements. Recodified prior 1.6.4 to 3.3.4. Renumbered remainder of section.
<b>3.5. Compliance with Requirements for the Summation of External and Internal Doses.</b>	Addition	Added a word for title clarity.
<b>3.8. Dose to an Embryo/Fetus.</b>	Revision	Amended to reflect CRCPD suggested state regulations.

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<b>3.9. Dose Limits for Individual Members of the Public.</b>	Deletion	Deleted retrofit allowance because it is no longer relevant.
<b>3.11. Surveys.</b>	Revision	Revised timeframe for instrument calibration for consistency.
<b>3.12. Personnel Monitoring.</b>	Revision/Addition	3.12.3 Amended to allow RSO evaluation of exposure of badges, updated “lead apron” to “protective apron,” and clarified monitoring periods and documentation requirements. 3.12.3 Added reference to fetal dosimeters. 3.12.5 Amended to reflect CRCPD suggested state regulations, as indicated in public comments. Amended to clarify periodic checks to quarterly checks.
<b>3.15. Caution Signs.</b>	Revision	Amended to provide clarity of the radiation symbol.
<b>3.18. Records of Radiation Protection Programs.</b>	Revision	Amended requirement to five years for consistency with the regulation.
<b>3.19. Records of Surveys.</b>	Addition	Added “instrument” for clarification.
<b>3.20. Determination and Records of Prior Occupational Dose.</b>	Addition/Deletion	Added “attempt” to obtain records of prior occupational exposure. Deleted “telegram” as it is no longer relevant.
<b>3.22. Records of Individual Monitoring Results.</b>	Deletion	Deleted sentence regarding effective date of these regulations as it is no longer relevant.
<b>3.24. Notification of Incidents.</b>	Revision/Addition	Amended to delete forms of notification no longer applicable and add current forms of notification.
<b>3.29. Storage and Control of Radiation Sources.</b>	Revision	Amended to reflect intent of CRCPD Suggested State Regulations.
<b>3.30. Reports of Stolen, Lost, or Missing Radiation Sources.</b>	Addition	Added reporting includes abandoned radiation machines.
<b>4.2. General Safety Provisions.</b>	Revision/Deletion/Addition	4.2.2 Added direct for clarification of supervision and amended for grammatical purposes. 4.2.6 and 4.2.8 Amended for clarity, grammar and replaced lead with protective apron.

		<p>4.2.9 Added exemption for hand placement.</p> <p>4.2.10 Deleted requirement for patient shielding and added collimation requirement. 4.2.12 Deleted references.</p> <p>4.12.13 Amended for clarity on ESE requirements and handheld dental equipment.</p> <p>4.2.15 Amended to clarify x-ray log.</p> <p>4.2.16 Clarified SID. 4.2.17 Deleted procedures because no longer applicable.</p>
<p><b>4.3. General Requirements for all Diagnostic X-ray Systems.</b></p>	<p>Revision</p>	<p>Amended throughout to correct grammatical use of x-ray and clarify units of measurement.</p>
<p><b>4.4. Shielding.</b></p>	<p>Revision/Reorganization/ Addition</p>	<p>4.4.1 Amended to clarify the person/persons responsible for ensuring changes are reviewed by the appropriate class vendor. Amended to clarify the form to be utilized and the required fees.</p> <p>Amended to reduce timeframe for the requirement of a shielding plan for space utilized as a radiation area.</p> <p>Prior 4.4.2.3 regarding requirement for shielding plan deleted and reorganized to 4.4.1.3 for clarity.</p> <p>4.4.2 Amended to clarify which replacement type does not require a shielding plan. Amended to delete vendor class for consistency with RHB 2.7.6. Amended to clarify timeframe to notify the Department. Amended to include form to be utilized for notification.</p> <p>Amended to change “machine” to “system” for consistency. Amended to clarify when a shielding plan is required. Amended to delete vendor class for consistency with RHB 2.7.6.</p> <p>Prior 4.4.2.3 deleted and reorganized to 4.4.1.3.</p>

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		<p>4.4.3 Amended to clarify when equipment may be installed or operated. Amended to clarify adherence to the accepted shielding plan.</p> <p>4.4.4 Amended to clarify and allow for the use of the current version of the appropriate national Council of Radiation Protection and Measurements Reports.</p> <p>Amended to include adherence to Part IV, Appendix C.</p> <p>4.4.6 Amended to add/delete vendor classes for consistency with RHB 2.7.6.</p> <p>Amended to clarify requirements for the area survey.</p> <p>Amended to clarify the form to be utilized for submission of the area survey.</p> <p>4.4.7 Amended to clarify the content of the “as-built” drawings and added vendor classes for consistency. Timeframe deleted and reorganized to 4.4.7.1.1.</p> <p>Addition to clarify the timeframe for submission of “as-built” drawings, the required content of the drawings, and the form to be utilized for submissions.</p> <p>4.4.7 Amended to add vendor class for consistency with RHB 2.7.6.</p> <p>4.4.8 Title amended to include Transportable Installations.</p> <p>Amended to create heading for Bone Density and Mammography installations section.</p> <p>Amended to add vendor class for consistency with RHB 2.7.6.</p> <p>Amended to include form to be utilized for notification.</p> <p>Added requirements for Transportable Installations.</p> <p>Added requirements for area survey for Transportable</p>
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		Installations. Added form to be utilized for notification and reference to existing requirement for review fees in RHB 2.3.2.
<b>4.5. Intraoral Dental Radiographic Systems.</b>	Revision/Reorganization	Amended to provide clarity regarding applicability of part. 4.5.4 Amended to provide clarity regarding x-ray control location. 4.5.9 – 4.5.10 Amended for grammatical purposes. 4.5.12 Amended to provide clarity on use of patient shielding. 4.5.13 Recodified from 4.6.4.
<b>4.6. Extraoral Dental Radiographic Systems.</b>	Revision/Reorganization	Amended to provide clarity regarding applicability of part. 4.6.1 Amended to provide clarity regarding cephalometric equipment requirements. 4.6.2 Amended to provide clarity regarding panoramic equipment requirements. 4.6.3 Amended to provide clarity regarding dental CT equipment requirements. 4.6.4 Recodified to 4.5.13.
<b>4.7. Medical Radiographic Systems.</b>	Revision/Addition/Deletion	Amended to provide clarity regarding applicability of part. Added “transportable” to clarify its inclusion for this requirement. Added “RHB” to applicable regulation numbers throughout this Part. 4.7.1 Amended to provide clarity on included equipment and correct grammatical errors. 4.7.2 Amended to clarify equipment specification. 4.7.3 Amended for grammatical purposes. 4.7.4 Amended for clarity and to grammatical purposes. 4.7.8 Deleted sentence as it is no longer relevant.
<b>4.8. Mobile Radiographic Systems.</b>	Revision/Deletion	Amended to provide clarity regarding applicability of part. 4.8.4 Amended for

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		<p>grammatical purposes.</p> <p>4.8.6 Amended for grammatical purposes.</p> <p>4.8.8 Amended to clarify intent of requirement.</p> <p>4.8.10 Requirement deleted from this Part. Requirement is specified in Part III.</p> <p>4.8.11 Renumbered to 4.8.10.</p> <p>4.8.12 Renumbered to 4.8.11.</p>
<b>4.9. Fluoroscopic X-ray Systems.</b>	Revision/Addition/Deletion	<p>Amended to provide clarity regarding applicability of part.</p> <p>Added “transportable” and “direct digital receptor” to clarify inclusion for this requirement.</p> <p>Added “RHB” to applicable regulation numbers throughout this Part.</p> <p>4.9.1 Added “transportable” to clarify inclusion to this requirement.</p> <p>4.9.4 Amended for grammatical purposes and to delete the current requirement of 4.9.4.3.7 as the requirement is covered in another part of this regulation.</p> <p>4.9.10 Amended to clarify intent of requirement.</p>
<b>4.10. Bone Densitometry Systems.</b>	Revision/Addition	<p>Amended to provide clarity regarding applicability of part</p> <p>Added “RHB” in front of regulation number in 4.10.2.2.</p>
<b>4.11. Computed Tomography (CT) X-ray Systems.</b>	Revision/Addition/Deletion	<p>Amended to provide clarity regarding applicability of part.</p> <p>4.11.1 Amended to provide clarity regarding Computed Tomography systems, and to clarify references to subsections.</p> <p>4.11.2 Amended for grammatical purposes.</p> <p>4.11.3 Amended to clarify regarding routine equipment quality control and equipment performance testing.</p> <p>4.11.5 Amended to provide clarity regarding cone beam computed tomography systems.</p>
<b>4.12. Veterinary Systems.</b>	Revision/Technical Correction	<p>Amended to provide clarity regarding applicability of part.</p>

		<p>4.12.1 Amended to provide clarity on qualified users and remove reference.</p> <p>4.12.7 Amended for grammatical purposes.</p> <p>4.12.9 – 4.12.19 Amended for grammatical purposes.</p> <p>4.12.21 Amended to clarify regarding applicable provisions.</p> <p>4.12.22 Amended to clarify regarding training for operators.</p>
<b>4.13. Medical Specimen Systems.</b>	Revision/Technical Correction	Amended to provide clarity regarding applicability of part.
<b>Part IV – Appendix A</b>	Revision/Technical Correction	Amended throughout to correct grammatical use of "x-ray", and to update terminology.
<b>Part IV – Appendix B</b>	Revision/Addition	<p>1. Amended to provide clarity regarding the operator's location and occupancy of adjacent areas.</p> <p>4. Amended to require the date of the plan and the signature.</p>
<b>Part IV – Appendix C</b>	Revision/Technical Correction	<p>Amended throughout to clarify the operator's location.</p> <p>1. Amended to correct grammar.</p> <p>3. Amended to provide clarity regarding the placement of x-ray controls for various x-ray systems.</p> <p>4. Amended to provide clarity regarding the design of the viewing system, and for grammatical purposes.</p>
<b>Part IV – Appendix D</b>	Revision/Technical Correction	Amended to provide clarity regarding dose limits to patients, and for grammatical purposes.
<b>Part IV – Appendix E</b>	Revision/Technical Correction	Amended to provide clarity regarding the exemption qualification, and for grammatical purposes.
<b>Part IV – Appendix F</b>	Revision/Deletion/Technical Correction	Amended to provide clarity regarding optional equipment testing, techniques to be used for dose testing, and CT equipment testing requirements. Removed requirement to document

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		adherence to shielding plan. Amended to update references.
<b>Part V Quality Standards and Certification Requirements for Facilities Performing Mammography.</b>	Technical Correction	Amended to updated references throughout this Part.
<b>5.1. Scope.</b>	Deletion/Technical Correction	5.1.1 Amended to delete requirements for submitting changes to the Department regarding Appendix A approval. 5.1.2 Amended to correct grammar for consistency.
<b>5.3. Revocation of Accreditation.</b>	Reorganization	Recodified and reorganized from prior 5.23 for better subject matter flow. Following sections are renumbered.
<b>5.4. Certificates.</b>	Technical Correction	Amended to change “must” to “shall” for consistency.
<b>5.5. Suspension or Revocation of Certificates.</b>	Reorganization	Recodified and reorganized from prior 5.24. Amended and updated to comply with state statute regarding the appeals process.
<b>5.7. Adverse accreditation or reaccreditation decisions.</b>	Revision/Deletion	Amended section title. Since this Agency does not play a role in accreditation/reaccreditation decisions, this section was amended to direct appeals of adverse accreditation/reaccreditation decisions to the Food and Drug Administration (FDA).
<b>5.9. Personnel Requirements.</b>	Addition	5.9.2 Amended subsection title to be consistent with other personnel subsections.
<b>5.12. Quality Assurance Requirements.</b>	Reorganization/Deletion	5.12.2 Amended and reorganized for clarity. Prior 5.10.2.3 deleted to remain in compliance with FDA mammography inspection policies.
<b>5.13. Equipment Quality Assurance Tests.</b>	Technical Correction/Addition	5.13.5 Amended heading of table to correct spelling. Amended to change “half-value layer” to HVL for consistency. Amended to include

		requirement for average glandular dose.
<b>5.14. Surveys.</b>	Deletion	Prior 5.12.5 deleted to comply with FDA mammography inspection policies.
<b>Prior 5.23 Revocation of Accreditation.</b>	Reorganization	Recodified and reorganized to 5.3 for better subject matter flow.
<b>Prior 5.24 Suspension or Revocation of Certificates.</b>	Reorganization	Recodified and reorganized to 5.5 for better subject matter flow.
<b>5.25. Mammography Units Used for Localization or Stereotactic Breast Biopsy Procedures.</b>	Revision/Deletion	5.25.3 Amended to change “Accreditation Program Overview” to “QC Manual”. Amended to delete requirement for the medical physicist survey report and corrective action to be sent to the Department within 10 days. Amended to add requirement for the medical physicist survey and corrective action to be maintained for Departmental review.
<b>5.28. Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Agency.</b>	Addition	5.28.1 Amended to include the requirement for the submission of the operating schedule. 5.28.3 Amended to include reference to the existing requirements for Out-of-State application fees and Out-of-State facility requirements.
<b>6.1. Scope.</b>	Revision	Amended for clarity and to be consistent with CRCPD Suggested State Regulations.
<b>6.3. General Provisions for All Therapeutic Equipment.</b>	Revision/Addition/Deletion	6.3.1 Amended for clarity 6.3.2 Amended to delete unnecessary reference to Nuclear Regulatory Commission. 6.3.3 Amended to clarify requirements and be consistent with CRCPD Suggested State Regulations. Also amended to specify required level of supervision. 6.3.5 Added 6.3.5.5 for consistency with CRCPD SSRs.

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<p><b>6.4. Therapeutic X-ray Systems of Less than 1 MeV.</b></p>	<p>Revision/Addition/Deletion</p>	<p>Amended to correct chart format and to delete references to the wording “effective date of these regulations” and add the specific date of requirement.</p>
<p><b>6.5. X-ray and Electron Therapy Systems with Energies of 1 MeV and Above.</b></p>	<p>Revision</p>	<p>Amended to correct use of incorrect word “normal” with correct word “nominal.”</p>
<p><b>6.6. Operational Requirements for X-ray and Electron Therapy Systems with Energies of 1 MeV and Above.</b></p>	<p>Amended</p>	<p>Amended to allow operational flexibility and to add “RHB” to applicable regulation numbers throughout this Part.</p>
<p><b>7.1. Scope.</b></p>	<p>Technical Correction</p>	<p>Amended for grammatical purposes.</p>
<p><b>7.4. General Requirements for all Analytical X-ray Equipment.</b></p>	<p>Revision/Technical Correction</p>	<p>7.4.4 Amended for grammatical purposes. 7.4.5 Amended to provide clarity on safety device documentation. 7.4.7 – 7.4.9 Amended for grammatical purposes.</p>
<p><b>7.5. Additional Requirements for Open Beam Configuration X-ray Equipment.</b></p>	<p>Revision/Technical Correction</p>	<p>7.5.8 Amended to provide clarity regarding type of equipment for which training requirements pertain and for grammatical purposes.</p>
<p><b>7.6. Additional Requirements for Enclosed Beam X-ray Equipment.</b></p>	<p>Revision</p>	<p>Amended to provide clarity regarding applicability of part.</p>
<p><b>7.7. Area Requirements for All Analytical X-ray Equipment.</b></p>	<p>Revision/Technical Correction</p>	<p>7.7.2 Amended to provide clarity regarding dose limits and for grammatical purposes. 7.7.3 Amended to provide clarity regarding radiation area surveys and use of area monitors. 7.7.4 Amended and partially moved to 7.7.5. 7.7.5 Moved from 7.7.4 and amended to provide clarity regarding maintenance of records.</p>
<p><b>7.9. Minimum Personnel Radiation Safety Training Requirements for</b></p>	<p>Revision/Technical Correction</p>	<p>Amended to provide clarity regarding training for personnel. 7.9.1 Amended to clarify</p>

<b>Radiation Safety and Operators.</b>		reference to part, and for grammatical purposes.
<b>7.10. Operating Procedures.</b>	Revision/Technical Correction	7.10.1 Amended to provide clarity regarding contents of operating procedures and for grammatical purposes.
<b>8.1. Scope.</b>	Technical Correction	Amended for grammatical purposes.
<b>8.2. Locking of X-ray Machines.</b>	Revision	Amended to provide clarity regarding surveillance by adequately trained individual.
<b>8.5. Warning Devices.</b>	Addition	Added to require the presence of warning devices and labels on equipment.
<b>8.7. Posting Requirements.</b>	Deletion	Partially deleted to remove redundancy.
<b>8.8. Minimum Personnel Radiation Safety Requirements for Radiation Safety Officers, Radiographers, and Operators.</b>	Revision/Technical Correction	Amended to provide clarity regarding personnel training requirements, and for grammatical purposes.
<b>8.9. Operating and Emergency Procedures.</b>	Technical Correction	Amended for grammatical purposes.
<b>8.11. Personnel Monitoring.</b>	Revision	Amended to provide clarity regarding use of personnel monitoring devices.
<b>8.12. Minimum Subjects to be Covered in Training Radiation Safety Officers and Radiographers.</b>	Revision/Technical Correction	Amended to provide clarity regarding personnel training requirements, and for grammatical purposes.
<b>8.13. Special Requirements for Certain Industrial Radiographic Techniques.</b>	Revision/Deletion/Technical Correction	Amended for grammatical purposes, to update references to subsections, to provide clarity regarding instrument calibration frequency, shielded room radiography, and field radiography, and to remove exemptions for certain industrial radiographic techniques.
<b>Part IX</b>	Addition/Reorganization	Former Part IX was recodified to Part X. Proposed Part IX added requirements for Personnel Security Screening Systems Using X-Ray.
<b>Part X</b>	Addition/Deletion/Revision/Reorganization	Former Part X was recodified to Part XI. Deleted definitions

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		no longer relevant or referenced in regulation. Added and amended definitions for clarity and to reflect CRCPD Suggested State Regulations.
<b>Part XI</b>	Deletion/Reorganization	Former Part XI was deleted in its entirety. Former Part X was recodified to Part XI.
<b>11.1. Scope.</b>	Revision	Amended to be consistent with other scopes listed in these regulations.
<b>11.2. Posting of Notices to Workers.</b>	Revision/Reorganization/Technical Correction	11.2.1 – 11.2.3 Amended to provide clarity regarding postings. 11.2.4 – 11.2.5 Amended for grammatical purposes, and to update reference.
<b>11.3. Instructions to Workers.</b>	Revision/Technical Correction	Amended to provide clarity regarding requesting exposure records. Amended for grammatical purposes, and to update reference.
<b>11.4. Notification and Reports to Individuals.</b>	Revision/Technical Correction	11.4.1 Amended to provide clarity regarding notification responsibilities of the registrant, and appropriate identifying information. 11.4.2 Amended to update reference. 11.4.3 Amended for grammatical purposes. 11.4.4 Amended to update references, and to provide clarity regarding timely notification.
<b>11.5. Presence of Registrants and Workers During Inspections.</b>	Revision/Technical Correction	11.5.2 Amended to provide clarity regarding consulting with workers, and to update reference. 11.5.4 Amended to provide clarity regarding workers' representatives, for grammatical purposes, and to update reference.
<b>11.6. Consultation with Workers During Inspection.</b>	Revision/Technical Correction	11.6.1 – 11.6.2 Amended to provide clarity regarding consulting with workers, for grammatical purposes, and to update reference. 11.6.3 Amended to update references.

<p><b>11.7. Request by Workers for Inspections.</b></p>	<p>Revision/Technical Correction</p>	<p>11.7.1 Amended to provide clarity regarding the form to be used, and to update reference. 11.7.2 Amended to provide clarity regarding inspections., and to update reference. 11.7.3 Amended for grammatical purposes.</p>
<p><b>11.8. Inspections not Warranted.</b></p>	<p>Revision/Reorganization</p>	<p>Amended title to provide clarity regarding revised content. Recodified RHB 10.8.1 to RHB 11.8, and amended to provide clarity regarding inspection with respect to a complaint.</p>
<p><b>11.9. Right to Inspect and Investigate.</b></p>	<p>Technical Correction</p>	<p>Amended for grammatical purposes.</p>

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

Interested persons may submit comment(s) on the proposed amendments to the Bureau of Radiological Health; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HQRegs@dhec.sc.gov](mailto:HQRegs@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on October 24, 2022, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its December 8, 2022, 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/Agenda>. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing.

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:**

Implementation of this regulation will not require additional resources. 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: R.61-64, X-rays (Title B).

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**Purpose:** The Department proposes comprehensive amendment to R.61-64, X-Rays (Title B). General areas of this revision include, but are not limited to, clarifying, and simplifying the regulation, adding new definitions as required, deleting requirements that are no longer applicable, and to ensure the regulation is in alignment with the current statute. The Department proposes to amend requirements regarding registration, inspections, violations, enforcement, equipment, patient shielding, and mammography. The proposed amendments will also update vendor classes, allow for the use of and add requirements for personnel security screening systems using x-ray, and clarify, organize, and update the radiation safety officer requirements. The proposed revisions also include changes such as corrections for readability, grammar, punctuation, codification, and other such regulatory text improvements.

**Legal Authority:** 1976 Code Sections 13-7-40 et seq.

**Plan for Implementation:** Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these proposed amendments. The proposed revisions related to the new NCRP recommendations are a substantial change to the long-standing, traditional practice of gonadal shielding, therefore, the Department will provide the regulated community and the public with weblinks to information resources including implementation guidance and frequently asked questions. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office.

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

The proposed amendments are necessary to update provisions with current practices and standards and to improve the overall effectiveness of the regulation.

The proposed revisions allow and set forth requirements for the use of x-rays on humans for the purposes of security screening. This is a result of the increasing interest in the use of security screening using x-rays in prisons, correctional facilities, detention centers, and jails to improve safety. Such use is currently prohibited by regulation and is being approved through the exemption process. It is reasonable to apply radiation to humans for purposes other than healing arts and research if there is determined to be a greater benefit to the public. The proposed requirements for such use are derived from the American National Standards Institute (ANSI) publication ANSI/HPS N43.17-2009, "Radiation Safety for Personnel Security Screening Systems Using X-Ray or Gamma Radiation." Proposed requirements for establishing a radiation safety program, appointing a Radiation Safety Officer (RSO), and providing RSO and operator training will help to assure safe operation. Radiation dose limits for screened individuals are substantially lower than the established standards for members of the public.

The proposed regulation will no longer implicitly or explicitly require the use of patient gonadal shielding (GS) during x-ray examinations based on the National Council on Radiation Protection and Measurement's (NCRP) January 12, 2021, Statement No. 13 - NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography concluding "that in most circumstances GS use does not contribute significantly to reducing risks from exposure and may have the unintended consequences of increased exposure and loss of valuable diagnostic information." The NCRP is a trusted source among radiation protection professionals.

The proposed revision will also require the use of thyroid shielding for patients when it will not interfere with the diagnostic image based on the 2019 NCRP Report No. 177 - Radiation Protection in Dentistry and Oral & Maxillofacial Imaging.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of these proposed amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any requirements of these amendments.

The installation and use of personnel security screening equipment will no longer require an application requesting exemption saving significant time and effort for registrants. Equipment registration fees for personnel security screening equipment will be added to the list of annual registration fees equal to the amount that is currently being assessed under the fee category of "Other."

Equipment registration fees for x-ray gauge equipment will be added to the list of annual registration fees equal to the amount that is currently being assessed under the fee category of "Diffraction."

Some members of the regulated community may incur minimal costs. Registrants who perform dental x-rays and do not possess thyroid shields for patients may need to obtain one or more shields depending on patient load and patient flow. A thyroid shield can be purchased for approximately \$35.00, based on unit pricing. Patients will be better protected from the harmful effects of radiation and will benefit from updated requirements based on current science.

UNCERTAINTIES OF ESTIMATES:

The cost of obtaining thyroid shields will vary among registrants. The cost savings related to ending routine gonadal shielding for patients will vary among registrants.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-64 seek to support the Department's goals of protecting workers and the public from the harmful effects of ionizing radiation from x-rays while continuing to allow for their beneficial use. Proposed revisions related to routine gonadal shielding may result in an increase in the disposition of protective aprons by many registrants. The Department encourages the proper disposal or recycling of protective aprons constructed with lead to reduce any potential negative impact on the environment. The use of thyroid shields during certain x-ray examinations will limit unnecessary radiation exposure to the radiosensitive thyroid gland.

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 proposed amendments are not implemented, the regulation will be maintained in its current form without realizing the benefits of the amendments herein.

**Statement of Rationale:**

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(h):

A thorough review of regulatory requirements and language, recent statements and publications by the National Council on Radiation Protection and Measurements, increasing interest in the use of security screening using x-rays, and comments from the regulated community led staff to propose revisions to R.61-64.

The following statements and reports were relied upon in developing the proposed amendments:

National Council on Radiation Protection and Measurement (NCRP) "Statement No. 13 - NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography" dated January 12, 2021;

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National Council on Radiation Protection and Measurement (NCRP) "Report No. 177 - Radiation Protection in Dentistry and Oral & Maxillofacial Imaging" dated 2019;

American Dental Association's Council on Scientific Affairs and the U.S. Food and Drug Association co-publication "Dental Radiographic Examinations: Recommendations for Patient Selection and Limiting Radiation Exposure" dated 2012;

American National Standards Institute (ANSI) publication "ANSI/HPS N43.17-2009, Radiation Safety for Personnel Security Screening Systems Using X-Ray or Gamma Radiation" dated 2009; and

Conference of Radiation Control Program Directors, Inc. Suggested State Regulations dates vary based on last amendment.

### **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. 5133  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS**  
CHAPTER 76

Statutory Authority: 1976 Code Sections 40-1-70, 40-28-30, 40-28-80(a), 40-28-120, and 40-28-140

- 76-2. Registration.
- 76-4. Seals.
- 76-5. License Expiration, Renewals and Reinstatement.
- 76-6. Continuing Education.
- 76-7. Examination.

### **Preamble:**

The Board of Landscape Architectural Examiners proposes to amend various sections in Chapter 76.

#### Section-by-Section Discussion:

- 76-2.A.-B. No change.
- 76-2.C. Strike "mailing addresses" and replace with "contact information".
- 76-2.D.-F. No change.
- 76-4.A. Add that seals shall be signed by the responsible landscape architect.
- 76-4.B. No change.
- 76-5.A. Strike "become invalid" and replace with lapse.
- 76-5.B. Strike "become invalid" and replace with lapse.
- 76-5.C. Clarify that the continuing education demonstrated for reinstatement is for the time that the license is lapsed.
- 76-6.A. No change.
- 76-6.B.1. Strike "Category" and replace with "Method." Add that continuing education hours approved by the national or state chapters of ASLA or approved by other landscape architect state regulatory authorities shall be accepted by the board.
- 76-6.B.2. Strike "Category" and replace with "Method".
- 76-6.B.2.a. Add that licensees may not claim more than five (5) hours for public service activities.
- 76-6.B.2.b. Add that licensees may not claim more than five (5) hours for authoring papers, articles or books.

- 76-6.B.2.c. No change.
- 76-6.B.2.d. Add that licensees may not claim more than three (3) hours for teaching landscape architectural courses or seminars.
- 76-6.B.2.e. Strike.
- 76-6.C. No change.
- 76-6.D.1.-3. No change.
- 76-6.D.4. Move reference to emeritus status waiver to new section; add age and experience waiver.
- 76-6.D.5. Emeritus status exemption added from prior section 76-6.D.4.
- 76-7.A.-C. No change.
- 76-7.D. Strike scores from the individual sections cannot be averaged.

A Notice of Drafting was published in the *State Register* on June 24, 2022.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on November 21, 2022. Written comments may be directed to Pam Dunkin, Administrator, Board of Landscape Architectural Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m. on October 24, 2022. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

These regulations are necessary and reasonable in that they provide clarification and guidance on continuing education and clarify scoring on the licensure exam.

**DESCRIPTION OF REGULATION:**

**Purpose:** The Board is amending its regulations to provide clarification and guidance on continuing education and to clarify scoring on the licensure exam. The amended regulations also: broaden the description of information applicants should provide to the Board regarding their employers from “mailing addresses” to “contact information”; require that seals be signed by the responsible landscape architect; and specify that licenses that expire are lapsed as opposed to invalid.

**Legal Authority:** 1976 Code Sections 40-1-70, 40-28-30, 40-28-80(a), 40-28-120, and 40-28-140.

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

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

The proposed regulations will provide clarification and guidance on continuing education and clarify scoring on the licensure exam.

**DETERMINATION OF COSTS AND BENEFITS:**

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

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### Statement of Rationale:

The updated regulations will provide clarification and guidance on continuing education and clarify scoring on the licensure exam. They will also broaden the description of information applicants should provide to the Board regarding their employers from “mailing addresses” to “contact information”; require that seals be signed by the responsible landscape architect; and specify that licenses that expire are lapsed as opposed to invalid.

### 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. 5132  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**PANEL FOR MASSAGE/BODYWORK**  
CHAPTER 77

Statutory Authority: 1976 Code Sections 40-30-30, 40-30-50, 40-30-113, 40-30-120, 40-30-140, 40-30-150,  
40-30-160, 40-30-180, and 40-30-190

- 77-100. Qualification for Licensure.
- 77-101. Minimum Massage Therapy Education Curriculum. (New)
- 77-103. Temporary Massage Therapy License for a Professional Event. (New)
- 77-104. Authority to Practice Massage Therapy in an Emergency. (New)
- 77-105. Reciprocity.
- 77-106. Endorsement. (New)
- 77-107. Reactivation of an Inactive License. (New)
- 77-115. Return of Licenses.
- 77-120. Continuing Education.
- 77-125. Change in Massage Practitioner’s Address or Name.
- 77-130. Transfer of License.
- 77-135. Lost, Destroyed, or Damaged License.
- 77-140. Communicable Disease Control.
- 77-141. Massage Therapy Establishment and Sole Practitioner Establishment Operations. (New)
- 77-150. Sole Practitioner Establishment Licenses. (New)
- 77-151. Residential Licensed Establishments. (New)

**Preamble:**

The South Carolina Panel for Massage/Bodywork proposes to amend its regulations in conformance with the enactment of S.227 to include but not be limited to updating the name of the Panel to Massage Therapy Board, establish regulations for massage establishments, and update regulations generally following a regulatory review in accordance with S.C. Code Section 1-23-120(J).

Section-by-Section Discussion

- 77-100. Repeal.
- 77-101. New section. Minimum Massage Therapy Education Curriculum.
- 77-103. New section. Temporary Massage Therapy License for a Professional Event.
- 77-104. New section. Authority to Practice Massage Therapy in an Emergency.
- 77-105. Repeal.
- 77-106. New section. Endorsement.
- 77-107. New section. Reactivation of an Inactive License.
- 77-115. Replace “Department” with “Board.”
- 77-120(1). Replace “Department” with “Board.”
- 77-120(1)(a) and (b). Replace “Department” with “Board.”
- 77-120(c) and (d). No change.
- 77-120(e). Replace “Department” with “Board.”
- 77-120(2)(a) and (b). Replace “Department” with “Board.”
- 77-120(2)(c)(1) – (3). No change
- 77-120(2)(c)(4). Replace “Department” with “Board.”
- 77-120(3). No change.
- 77-120(4)-(5). Replace “Department” with “Board.”
- 77-120(6)-(7). No change.
- 77-120(8)-(9). Replace “Department” with “Board.”
- 77-125. In title, replace “Practitioner’s” with “Therapist’s.”
- 77-125(1). Replace “Practitioner’s” with “Therapist’s”. Replace “Department” with “Board.”
- 77-125(2). Replace “practitioner’s” with “therapist’s” and add “with” before “proof of name change.”
- 77-125(3). Replace “Department” with “Board.”
- 77-125(4). No change.
- 77-130. No change.
- 77-135(1). Strike “practitioner/bodywork”. Add “establishment”. Replace “Department” with “Board.”
- 77-135(2). Replace “Department” with “Board.”
- 77-135(3)-(5). No change.
- 77-140. Repeal.
- 77-141. New section. Massage Therapy Establishment and Sole Practitioner Establishment Operations.
- 77-150. New section. Sole Practitioner Establishment Licenses.
- 77-151. New section. Residential Licensed Establishments.

A Notice of Drafting was published in the *State Register* on May 27, 2022.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 2:00 p.m. on November 28, 2022. Written comments may be directed to Theresa Brown, Administrator, Panel for Massage/Bodywork, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m. on October 24, 2022. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

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### **Preliminary Fiscal Impact Statement:**

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

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

The proposed regulations are both reasonable and necessary as they will amend regulations to conform the Board's regulations to the newly-enacted law, which requires the Board to establish regulations for massage establishments. The regulations also update the Board's name, consistent with the newly-enacted law. Other recommended changes follow a regulatory review conducted in accordance with S.C. Code Section 1-23-120(J).

### **DESCRIPTION OF REGULATION:**

**Purpose:** The South Carolina Panel for Massage/Bodywork proposes to amend its regulations in conformance with the enactment of S.227 to include but not be limited to updating the name of the Panel to Massage Therapy Board, establish regulations for massage establishments, and update regulations generally following a regulatory review in accordance with S.C. Code Section 1-23-120(J).

**Legal Authority:** 1976 Code Sections 40-30-30, 40-30-50, 40-30-113, 40-30-120, 40-30-140, 40-30-150, 40-30-160, 40-30-180, and 40-30-190.

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

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

The proposed regulations are both reasonable and necessary as they will amend regulations to conform the Board's regulations to the newly-enacted law, which requires the Board to establish regulations for massage establishments. The regulations also update the Board's name, consistent with the newly-enacted law. Other recommended changes follow a regulatory review conducted in accordance with S.C. Code Section 1-23-120(J).

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

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

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### **Statement of Rationale:**

The updated regulations will conform the Board's regulations to the newly-enacted law, which requires the Board to establish regulations for massage establishments. The regulations also update the Board's name, consistent with the newly-enacted law. Other recommended changes follow a regulatory review conducted in accordance with S.C. Code Section 1-23-120(J).

**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. 5131  
**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**  
CHAPTER 67  
Statutory Authority: 1976 Code Section 42-3-30

67-610. Continuing Obligation to Update, Request for Hearing, and Answer.

**Preamble:**

The South Carolina Workers' Compensation Commission proposes to amend the regulation that addresses a party's continuing obligation to update a request for hearing and answer to allow for a streamlined process by which to add or remove a party and to clarify procedures for filing and responding to such amended forms.

Section-by-Section Discussion:

67-610. Continuing Obligation to Update, Request for Hearing, and Answer.

1. Revises subparagraph A for clarity and allows for the filing of an amended form to indicate a change in the responsible parties subject to current limitations in the regulations.
2. Revises subparagraph A to mandate that an amended form identify the amendment.
3. Revises subparagraph B to change the time period to file amended forms.
4. Revises subparagraph B (1) to require the amended form be timely filed and served.
5. Revises subparagraph B (2) to allow for a postponement.
6. Revises subparagraph B (3) to allow for the filing of additional amended forms.
7. Deletes subparagraph B (4).
8. Deletes subparagraph B (5).
9. Revises subparagraph C to allow a party to be added or removed by the filing of an amended form.
10. Adds subparagraph C (1) to require an amended form adding or removing a party to be timely filed and served.
11. Adds subparagraph C (2) to set the time period for a response to an amended form adding or removing a party if a hearing has been previously requested and to set the time period to hold a hearing or to allow a postponement.
12. Adds subparagraph C (3) to allow subsequent amendments adding or removing a party only with leave of the Commission and a showing of good cause.

The Notice of Drafting was published in the *State Register* on July 22, 2022.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at the South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, SC 29201 on November 21, 2022, at 10:30 am. If a qualifying request pursuant to Section

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1-23-110(A)(3) is not timely received, the hearing will be cancelled.

Written comments may be directed to Gary Cannon, Executive Director, South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, SC 29201 and may be submitted electronically to [gcannon@wcc.sc.gov](mailto:gcannon@wcc.sc.gov), no later than November 7, 2022.

### **Preliminary Fiscal Impact Statement:**

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

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

Following input from stakeholders that regularly appear before the Commission, the Commission needs to amend regulation 67-610 to allow parties to more easily amend their pleadings to add or remove a necessary party. The title of the regulation needs to be amended to better reflect its scope and purpose. Subsection "A" provides clear instructions for litigants on how to amend a pleading generally. Subsection "B" provides specificity regarding the manner and timeframe in which a pleading can be amended. Subsection "C" addresses adding or removing a party.

### **DESCRIPTION OF REGULATION:**

Purpose: To allow for the amending of pleadings and adding or removing of a party.

Legal Authority: 1976 Code Section 42-3-30.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon Publication in the State Register. The Commission will notify stakeholders of the revised regulation by posting notice on the Commission's website.

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

The proposed regulation is necessary to facilitate the addition and removal of parties to claims pending before the Commission and to decrease litigation costs for stakeholders.

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

No costs are expected to be incurred by the Commission or its stakeholders as a result of this change.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning this regulation.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

This regulation will have no effect on the environment of this state.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

**Statement of Rationale:**

Regulation 67-610 is being revised to streamline and clarify the existing process by which litigants before the Commission amend pleadings and add or remove parties to a claim.

**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.

## 74 EMERGENCY REGULATIONS

Filed: August 31, 2022 4:10 pm

Document No. 5123  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-2200, and 50-11-2210

### **Emergency Situation:**

These emergency regulations establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 3, it is necessary to file these regulations as emergency.

### **Text:**

#### **WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2022-2023**

Dove Management Area Regulations: The following fields are open only during the dates and times indicated below. A Wildlife Management Area permit and a Migratory Bird Permit are required for dove hunting on all fields. Fields denoted by an asterisk (\*) require hunters to sign in and sign out on ALL hunts. No species other than mourning doves, pigeons and Eurasian collared doves may be hunted during scheduled dove hunts.

#### **Statewide Season Dates:**

September 3 - October 8, November 12 - November 26, December 24, 2022 - January 31, 2023.

Bag Limit: Mourning Doves: 15 doves per day. No limit on Eurasian collared doves or pigeons.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 3 – October 8).

#### **ABBEVILLE**

U.S. Forest Service – Power of Partnerships Field – Sept. 3 Adult/Youth Hunt. 1<sup>st</sup> season – Saturdays Only beginning Sept. 10. 2<sup>nd</sup> and 3<sup>rd</sup> seasons open Mon. – Sat.

#### **AIKEN**

\*US Dept of Energy - Crackerneck WMA. 1<sup>st</sup> season – Sept. 7, 21, 28.

#### **ANDERSON**

Clemson University - Fant's Grove WMA. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. Field Closed Oct. 1. Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Saturdays Only.

#### **BERKELEY**

\*U.S. Army Corps of Engineers - Canal WMA. Sept. 3, 24; Oct. 8; Nov. 19. Sept. 10 is Wounded Warrior Hunt Only -Invitation Only.

#### **CHARLESTON**

\*DNR Botany Bay Plantation WMA. Sept. 3, 10, Oct. 8, Nov. 12. All hunts are Adult/Youth Only.

#### **CHEROKEE**

Duke Energy – London Creek WMA. Saturdays only beginning Sept. 3.

**CHESTER**

U.S. Forest Service - Worthy Bottoms. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. –Sat.

DNR Landsford Canal Forest Legacy Area. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. –Sat.

**CHESTERFIELD**

SC Forestry Commission – Sand Hills State Forest - Wilkes Chapel Field. 1<sup>st</sup> season –Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. – Sat.

SC Forestry Commission – Sand Hills State Forest - Davis Field. 1<sup>st</sup> season – Opening Day Sept. 3, then Wednesdays Only beginning Sept. 14. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

**CLARENDON**

\*Santee Cooper - Santee Dam WMA. Sept. 3, 17; Oct. 1; Nov. 19.

\*SC Forestry Commission - Oak Lea WMA. Sept. 3, 10, 17, 24, Oct. 1, Dec. 28; Jan. 4.

**COLLETON**

\*DNR - Donnelley WMA. Sept. 3, 10; Oct. 8; Nov. 12.

**FLORENCE**

Santee Cooper – Pee Dee Station Site WMA. Sept. 3, 17; Oct. 8; Nov. 26; Dec. 31; Jan.14, 28. Dove Hunting Only.

**GEORGETOWN**

\*DNR Samworth WMA - Sept. 3, 17; Oct. 1; Nov. 12, 19.

**GREENVILLE**

DNR Tall Pines WMA. Dove Hunting Only. 1<sup>st</sup> Season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> and 3<sup>rd</sup> seasons – Saturdays Only.

**HAMPTON**

\*DNR – Palachucola WMA. Sept. 3, 10, 21; Oct 1; Nov. 12.

\*DNR - Webb Wildlife Center. Sept. 3, 10, 21; Oct. 1; Nov. 12.

**LAURENS**

DNR Cliff Pitts WMA - 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> and 3<sup>rd</sup> seasons open Mon. – Sat.

DNR Gray Court Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. - Sat.

**LEXINGTON**

Hallman Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Saturdays Only. Dove Hunting Only.

**MARLBORO**

DNR - Lake Wallace WMA. Sept. 3, 17; Oct. 8; Nov. 26; Dec. 31; Jan. 14, 28. Dove Hunting Only.

**MCCORMICK**

\*U.S. Army Corps of Engineers - Bordeaux Field. Sept. 3 & 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11 & 25; Dove Hunting Only. Hunters must sign-in & out at 1009 McIntosh Rd.

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U.S. Army Corps of Engineers – Parksville Field. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

US Army Corp of Engineers - Plum Branch Fields. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

### **NEWBERRY**

SCDOT McCullough Field. Saturdays Beginning Sept. 3. Dove Hunting Only.

DNR Belfast WMA. Sept. 3, 10, 17, 24; Oct. 1; Nov. 26. 3rd season - Open Mon. - Sat.

### **OCONEE**

U.S. Forest Service – Long Creek Tract. In order to hunt, adults must have 1 or 2 youth age 17 or younger. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> season – Open November 12 & 19 Only. 3<sup>rd</sup> season – Closed.

U.S. Forest Service - Ross Mtn. Field. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 3.

### **ORANGEBURG**

\*Santee Cooper - Santee Cooper WMA. Sept. 3 is Adult/Youth Only. Sept. 10, 24; Nov. 12.

### **PICKENS**

DNR Property - Rifle Range. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 3. Dove hunting only.

Clemson University - Gravely WMA - Causey Tract. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 3. Dove hunting only.

DNR Property – Jocassee Gorges – Cane Creek Field. Open Wednesday Only, Beginning Sept. 21. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons.

### **RICHLAND**

Love WMA – Sept. 3, 10, 17, 24; Oct. 1

### **SALUDA**

SCE&G Saluda River Field. 1st season - Saturdays Only Beginning Sept. 3. 2nd & 3rd seasons - Open Mon. - Sat.

### **SPARTANBURG**

Santee Cooper. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

### **SUMTER**

S.C. Forestry Commission - Manchester State Forest

\*Bland Field 1. Sept. 3 is Adult/Youth Hunt Only. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 10. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat. (Designated fields and the general forest).

\*Tuomey Fields Field A –1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat. (Designated fields and the general forest).

### **UNION**

DNR Thurmond Tract. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat.

U.S. Forest Service - Sedalia. Sept. 3 is Adult/Youth Only. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 10. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat.

U.S. Forest Service - Herbert Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 3. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat.

**YORK**

DNR - Draper Tract. 1<sup>st</sup> season – Sept. 3, 17; Oct. 8; Nov. 26; Dec. 31; Jan. 14, 28. Dove Hunting Only.

York County – Worth Mountain WMA. Sept. 3, 17; Oct. 8; Nov. 26; Dec. 31; Jan. 14, 28. Dove Hunting Only.

**SPECIAL YOUTH DOVE HUNTS:**

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 15 years of age and younger. Youths 16 & 17 years of age may participate in the hunt with or without an accompanying adult. The following regulations also apply: (1) Adult must remain in the field and closely supervise participating youth at all times. (2) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (3) Adults are allowed to shoot. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 15 birds.

**ABBEVILLE COUNTY YOUTH HUNT**

US Forest Service – Power of Partnerships Field. September 3.

**CHARLESTON COUNTY YOUTH HUNT**

Botany Bay Plantation WMA - September 3, 10; October 8; November 12.

**OCONEE COUNTY ADULT/YOUTH HUNT**

1<sup>st</sup> season – Saturdays only beginning Sept. 3. 2<sup>nd</sup> season – Open November 12, 19 Only. 3<sup>rd</sup> season – Closed.

**ORANGEBURG COUNTY YOUTH HUNT**

Santee Cooper - Santee Cooper WMA. September 3.

**SUMTER COUNTY YOUTH HUNT**

Manchester State Forest near Wedgefield Bland Tract - Field 1 near Wedgefield - September 3.

**UNION COUNTY YOUTH HUNT**

Sedalia Field (U.S. Forest Service) - September 3.

**YORK COUNTY YOUTH HUNT**

SCDNR - Draper WMA - September 3.

**Statement of Need and Reasonableness:**

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 3, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

This amendment of Regulation 123-40 will result in increased public hunting 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.

## 78 EMERGENCY REGULATIONS

Filed: August 29, 2022 1:58 pm

Document No. 5122  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114  
Statutory Authority: 1976 Code Section 43-1-80

114-550. Licensure of Family Foster Homes and Approval of Adoptive Homes for Children in Foster Care.

### **Emergency Situation:**

The filing of the revised regulation is necessary to provide appropriate standards concerning swimming pools, wading pools, hot tubs, and spas in family foster homes and adoptive homes to ensure the safety and wellbeing of children in these homes. In addition, this emergency regulation will minimize a financial deterrent associated with installing suitable barriers around swimming and wading pools to licensing foster and adoptive homes. This deterrent has presented challenges to placement needs of children in foster care and those seeking an adoptive home.

### **Text:**

114-550(N). Additional Health and Safety Standards.

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(4) The applicants' home must meet the following standards concerning swimming pools, wading pools, hot tubs, and spas:

(a) Swimming pools and wading pools are to have a barrier on all sides. The method of access through the barrier shall be equipped with a safety device (i.e. latch, lock, etc.) and the access to the pool requires adult authorization and knowledge.

(b) Swimming pools must be equipped with a life saving device, such as a ring buoy.

(c) If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.

(d) Hot tubs and spas must have safety covers that are locked when not in use.

(e) Applicants will closely supervise the child in foster care when the child is near any swimming pool or body of water. When applicants cannot supervise, they must restrict the child access to swimming pools or bodies of water. The child must never be left to swim alone.

(f) Applicants will provide water safety instruction to the child in foster care as appropriate for his or her age and development if the home is adjacent to any body of water or has a swimming pool. Water safety instruction addresses key knowledge and skills on how to be safe around water and does not necessarily mean swimming lessons.

(g) Applicants will maintain the swimming pool in safe condition, including testing and maintaining the chlorine and pH levels as required by the manufacturer's specifications.

(h) Applicants will lock all entry points when the swimming pool is not in use.

(i) Applicants will remove or secure any steps or ladders to the swimming pool to make them unusable when the pool is not in use.

(j) Applicants will set up and maintain wading pools according to the manufacturer's instructions, and empty and store them when not in use.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: To ensure that children in family foster homes and adoptive homes do not have access to swimming pools, wading pools, hot tubs, and spas without the appropriate adult authorization and knowledge.

Legal Authority: 1976 Code Section 43-1-80.

Plan for Implementation: The proposed emergency regulation will take effect upon filing with the *State Register*. DSS will notify staff and licensing partners of the proposed emergency regulation, provide training, and post the proposed emergency regulation on the agency's website.

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

The agency with this emergency regulation seeks to promote child safety and active adult supervision of children in and around swimming pools and wading pools. The agency expects benefits including, but not limited to, increased safety of children in homes with swimming pools, wading pools, hot tubs, and spas and an expanded source of individuals whose homes may be considered for licensure as a family foster homes or adoptive home.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs incurred by the State or of any political subdivision.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the agency's function of promoting safety, permanency, and well-being for children.

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

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