

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2020 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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In order by General Assembly review expiration date
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 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY	HOUSE COMMITTEE	SENATE COMMITTEE
4952			Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts	05/12/2021	Public Service Commission	Regs and Admin Procedures	Judiciary

2 EXECUTIVE ORDERS

Executive Order No. 2020-44

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in coping with and mitigating the significant public health threat and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain flexible to account for the evolving and expanding nature of the public health emergency; and

WHEREAS, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, and 2020-42; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on May 18, 2020, the undersigned approved and signed H. 3411, R-140, Act No. 135 of 2020, as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; and

WHEREAS, although the above-referenced and other emergency measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an ongoing, evolving, and expanding public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the current public health emergency and the significant economic impacts and other consequences associated with the same; and

WHEREAS, as of July 11, 2020, DHEC has identified at least 54,538 confirmed cases of COVID-19 in the State of South Carolina, including 940 deaths due to COVID-19; and

WHEREAS, DHEC announced 2,239 new positive cases of COVID-19 on July 11, 2020, which represents the highest number of positive cases of COVID-19 reported in a single day, as well as the State's first pediatric death associated with COVID-19; and

WHEREAS, over the past several weeks, the State has significantly increased the availability of, and access to, COVID-19 testing, and although the expansion of testing capability and capacity was expected to produce higher daily numbers of confirmed cases of COVID-19, DHEC has also noted substantial increases in the rate or percentage of positive test results, as well as the number of hospital beds occupied by patients who have either tested positive or are under investigation for COVID-19; and

WHEREAS, as a result of South Carolina's enhanced testing and tracing initiatives, DHEC has also identified additional "hot spots" in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

WHEREAS, due to the continued spread of COVID-19 and recent increases in the number of individuals hospitalized in connection with the same, the State of South Carolina must continue to take any and all necessary and appropriate steps to address and minimize the resulting strain on healthcare facilities and resources; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that "[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists"; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to "declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation"; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a "public health emergency" exists when there is an "occurrence or imminent risk of a qualifying health condition," which includes "an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness"; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned "may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation"; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is "supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State"; and

4 EXECUTIVE ORDERS

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, the State of South Carolina has made significant progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and expanded and now present different and additional threats, which must be dealt with on their own terms; and

WHEREAS, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the different and additional public health threats posed by COVID-19, as well as the continued need to, *inter alia*, mitigate the resulting strain on healthcare facilities and resources and deploy widespread testing and tracing initiatives, “require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

WHEREAS, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status and continued community spread and transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, the State of South Carolina must take additional proactive action to control the spread of COVID-19 and mitigate the impacts associated with the same, particularly on healthcare facilities and resources and certain portions of the State’s population; and

WHEREAS, it is imperative that the State of South Carolina continue to utilize extraordinary measures and deploy substantial resources to meet the unprecedented threat posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

WHEREAS, in addition to the foregoing, in further proactively preparing for and promptly responding to the continued spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

WHEREAS, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective “social distancing” practices and implement additional targeted and narrowly tailored measures to combat and control the spread of COVID-19; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, updated data, new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the ongoing COVID-19 pandemic, including the different, additional, and intensifying threats cited herein, represents and requires a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

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 declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

To prepare for and respond to the evolving and expanding public health threat posed by the COVID-19 pandemic and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

6 EXECUTIVE ORDERS

A. The State of South Carolina must take additional proactive action and implement further extraordinary measures to prepare for, respond to, and address the ongoing and evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby direct DHEC to restrict visitation to nursing homes and assisted living facilities, with the exception of end-of-life situations, as DHEC deems necessary and appropriate. I further direct DHEC to develop guidelines for nursing homes and assisted living facilities to allow for or facilitate limited visitation for immediate family members and to communicate the same to such facilities.

E. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

F. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

G. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

H. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

I. I hereby declare that the provisions of the following Orders shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by prior or future Order: Executive Order Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, 2020-16, 2020-18, 2020-21, 2020-22, 2020-25, 2020-28, 2020-30, 2020-31, 2020-33, 2020-34, 2020-36, and 2020-37.

Section 2. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously undertaking additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must promptly undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 3. Transportation Waivers

To expedite the State of South Carolina's continued preparation for and response to the ongoing and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended.

B. I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's May 13, 2020 Extension of Expanded Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49

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C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

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

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

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the

provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 5. 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 11th DAY OF JULY, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-45

WHEREAS, the State of South Carolina must continue to take all necessary and appropriate actions in coping with and mitigating the evolving and expanding public health threat and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain focused on implementing and imposing targeted and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare facilities and resources; and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

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WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, and 2020-44; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention (“CDC”), the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, “The President’s Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)” —to help protect Americans during the global COVID-19 outbreak; and

WHEREAS, the President’s Coronavirus Guidelines for America recommend, *inter alia*, that the American people “[w]ork or engage in schooling from home whenever possible”; “[a]void social gatherings in groups of more than 10 people”; “[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options”; and “[a]void discretionary travel, shopping trips, and social visits”; and

WHEREAS, on March 29, 2020, the President of the United States extended and expanded the provisions of his Coronavirus Guidelines for America until April 30, 2020, based on the ongoing nature and evolving scope of the global COVID-19 pandemic; and

WHEREAS, on March 31, 2020, the undersigned issued Executive Order No. 2020-17, directing that certain “non-essential” businesses, venues, facilities, services, and activities in the following categories be closed to non-employees and the public, effective Wednesday, April 1, 2020, at 5:00 p.m.: entertainment venues and facilities, recreational and athletic facilities and activities, and close-contact service providers; and

WHEREAS, on April 3, 2020, the undersigned issued Executive Order No. 2020-18, superseding the provisions of Executive Order No. 2020-17 and directing that certain additional “non-essential” businesses, venues, facilities, services, and activities in the general category of retail stores also be closed to non-employees and the public, effective Monday, April 6, 2020, at 5:00 p.m.; and

WHEREAS, on April 6, 2020, the undersigned issued Executive Order No. 2020-21, directing, *inter alia*, that effective Tuesday, April 7, 2020, at 5:00 p.m., any and all residents and visitors of the State of South Carolina are required to limit social interaction, practice “social distancing” in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and shall limit their movements outside of their Residence, except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations, as such terms are further defined therein; and

WHEREAS, on April 16, 2020, the President of the United States issued new Guidelines on Opening Up America Again, which contemplate individual States reopening in phases using a deliberate, data-driven approach tailored to address the situation in each State; and

WHEREAS, on April 20, 2020, based on the latest data from the South Carolina Department of Health and Environmental Control (“DHEC”), the undersigned issued Executive Order No. 2020-28, amending, *inter alia*, certain provisions of Executive Order Nos. 2020-18 and 2020-21, as extended by Executive Order No. 2020-23, to initiate certain modifications to prior “non-essential” business closures—specifically, “retail stores,”

as identified therein by general description—so as to begin the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, on May 3, 2020, the undersigned issued Executive Order No. 2020-31, modifying Section 1 of Executive Order No. 2020-21 (Home or Work Order), as well as amending the provisions of Section 4 of Executive Order No. 2020-10, as extended by Executive Order No. 2020-29, so as to authorize restaurants to provide outdoor customer dining services, effective Monday, May 4, 2020, at 12:01 a.m., in addition to previously authorized services for off-premises consumption; and

WHEREAS, on May 8, 2020, the undersigned issued Executive Order No. 2020-34, modifying and amending certain prior Orders so as to authorize restaurants to provide services for limited indoor, on-premises customer dining, effective Monday, May 11, 2020, at 12:01 a.m., in addition to previously authorized services for off-premises consumption and outdoor customer dining, as well as rescinding those restrictions previously imposed on boating activities; and

WHEREAS, on May 15, 2020, upon consultation with, *inter alia*, various state and federal agencies, officials, and experts, the undersigned issued Executive Order No. 2020-36, amending certain prior Orders so as to initiate additional modifications to prior “non-essential” business closures—namely, “close-contact service providers” and specific “recreational and athletic facilities and activities,” as identified by general description and further defined therein—and continue the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, on May 21, 2020, upon further consultation with, *inter alia*, various state and federal agencies, officials, and experts, the undersigned issued Executive Order No. 2020-37, amending prior Orders so as to initiate additional modifications to prior “non-essential” business closures—namely, certain categories of entertainment venues and facilities and recreational and athletic facilities and activities, as identified by general description and further defined therein—as part of the ongoing process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, although the aforementioned and other emergency measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an ongoing and evolving public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the current public health emergency and mitigating the resulting burdens on healthcare facilities and resources; and

WHEREAS, as of July 11, 2020, DHEC has identified at least 54,538 confirmed cases of COVID-19 in the State of South Carolina, including 940 deaths due to COVID-19; and

WHEREAS, DHEC announced 2,239 new positive cases of COVID-19 on July 11, 2020, which represents the highest number of positive cases of COVID-19 reported in a single day, as well as the State’s first pediatric death associated with COVID-19; and

WHEREAS, over the past several weeks, the State has significantly increased the availability of, and access to, COVID-19 testing, and although the expansion of testing capability and capacity was expected to produce higher daily numbers of confirmed cases of COVID-19, DHEC has also noted substantial increases in the rate or percentage of positive test results, as well as the number of hospital beds occupied by patients who have either tested positive or are under investigation for COVID-19; and

WHEREAS, according to DHEC data, younger South Carolinians continue to account for a substantial portion of positive cases of COVID-19, and since June 1, 2020, there has been a 436.5% increase in newly reported COVID-19 cases among the 21–30 age group, representing 22% of the total confirmed cases of COVID-19 in the State, which is the largest percentage of positive cases by age group; and

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WHEREAS, based on the latest data and developments, and after conferring with various state and federal public health agencies, officials, and experts regarding ongoing testing and tracing initiatives and the results thereof, the undersigned is informed that late-night congregate settings in restaurants, bars, and other establishments have been identified as sources of, or contributing factors to, substantial community spread and transmission of COVID-19; and

WHEREAS, in view of the foregoing, and in an effort to provide for and protect the health and welfare of the people of this State, the undersigned has determined that it is necessary and appropriate to implement and impose certain temporary, targeted, and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare resources, while also hopefully avoiding the need to resort to more restrictive means of addressing the same; and

WHEREAS, contemporaneously herewith, the undersigned issued Executive Order No. 2020-44, declaring an additional, distinct State of Emergency—based on new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances, including the aforementioned data and developments related to COVID-19—and implementing additional extraordinary measures to address the same, while also extending provisions of certain prior Orders for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws, authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, in addition to the foregoing authorities, pursuant to section 61-6-4160 of the South Carolina Code of Laws, as amended, “[i]t is unlawful to sell alcoholic liquors . . . during periods proclaimed by the Governor in the interest of law and order or public morals and decorum” and “[f]ull authority to proclaim these periods is conferred upon the Governor in addition to all his other powers”; and

WHEREAS, section 61-6-4160 of the South Carolina Code of Laws further provides that “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years”; and

WHEREAS, the Attorney General has previously opined that “[t]he obvious intent of [section 61-6-4160’s predecessor statute] is to afford the Governor the right to order the sale of alcoholic liquors to be discontinued during temporary periods of emergency” and that “[i]t is clear that [the Governor] ha[s] the authority . . . to order that the sale of liquors be prohibited at such places in the State in which, in [his] judgement, the interest of law and order and public morals and decorum, require such action,” 1968 WL 13075, at *1 (S.C.A.G. Apr. 27, 1968); and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s authority and responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined that the State of South Carolina must take additional proactive action and implement further extraordinary measures designed to slow the spread of COVID-19 and limit the resulting strain on healthcare resources.

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. Temporary Restrictions Regarding Alcoholic Beverages at Restaurants, Bars, and Other Establishments After 11:00 p.m.

To address and reduce instances of community spread and transmission of COVID-19 among individuals congregating in restaurants, bars, and other establishments, to mitigate the resulting burdens on healthcare facilities and resources, and to maintain peace and good order during the State of Emergency, pursuant to the aforementioned authorities and other applicable law, as well as the specific provisions set forth below, I hereby determine, order, and direct as follows:

A. For the foregoing reasons, and in accordance with section 61-6-4160 of the South Carolina Code of Laws, I hereby determine and proclaim that it is necessary and appropriate and “in the interest of law and order” and “public morals and decorum” to prohibit the sale of beer, wine, or alcoholic liquor under certain conditions and during certain periods, as set forth below, in connection with the State of Emergency.

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B. I hereby order and direct that effective Saturday, July 11, 2020, at 11:00 p.m., the sale or consumption of beer, wine, or alcoholic liquor on the licensed premises of all persons or businesses authorized to sell beer, wine, or alcoholic liquor in the State of South Carolina (collectively, “Licensees”), as set forth below, is prohibited between the hours of 11:00 p.m. and 10:00 a.m. the following day.

C. For purposes of this Section, beer, wine, and alcoholic liquors shall refer to those alcoholic beverages as defined in Chapters 4 and 6 of Title 61 of the South Carolina Code of Laws, as amended. For purposes of this Section, Licensees include only those persons or businesses holding the following permits or licenses issued by the South Carolina Department of Revenue (“DOR”) pursuant to Title 61 of the South Carolina Code of Laws:

1. On-Premises Beer and Wine Permits (PBW) or 7-Day On-Premises Beer and Wine Permit (PO7);
2. Instate Winery Permit (PWY), Domestic Winery Permit (PDW), or 7-Day Winery Permit (P7W);
3. Brewpub Beer Permit (PBB);
4. Brewery Permit (PWY);
5. Business Liquor by the Drink License (PLB);
6. Non-Profit Private Club Liquor by the Drink License (PLC); or
7. Special Event Permit or Special Non-Profit Event Permit.

This Order does not limit the hours of sales for beer, wine, or alcoholic liquors for off-premises consumption, which shall continue to be governed by existing law.

D. Pursuant to sections 1-3-430 and 1-3-440 of the South Carolina Code of Laws, the undersigned is authorized to enforce the provisions of this Order “by use of all appropriate available means,” to include, *inter alia*, “[o]rder[ing] any and all law enforcement officers of the State or any of its subdivisions to do whatever may be deemed necessary to maintain peace and good order” and “order[ing] or direct[ing] any State, county[,] or city official to enforce the provisions of such proclamation in the courts of the State by injunction, mandamus, or other appropriate legal action.”

E. I hereby authorize, order, and direct DOR and the South Carolina Law Enforcement Division (“SLED”) to administer the provisions of this Order and enforce compliance with the same as necessary and appropriate. Noncompliance with this Section shall constitute grounds for suspension of a license or permit in accordance with the provisions of Title 61, including but not limited to sections 61-4-580, 61-6-50, and 61-6-100, as amended. Pursuant to the process established in section 1-23-370(c) of the South Carolina Code of Laws, as amended, if DOR “finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings.” Unless otherwise provided by DOR, any summary suspension under this Section will be effective for at least the duration of this Order and any amendments to or extensions of the same. Notwithstanding the foregoing, this Section does not prevent or prohibit DOR from seeking or imposing additional penalties as authorized by law if warranted by the Licensee’s actions. I hereby further order and direct DOR, upon suspension of a license or permit for noncompliance with this Section, to promptly institute proceedings in the Administrative Law Court to review the summary suspension, as required by section 1-23-370(c).

F. In addition to the foregoing authorities, noncompliance with this Section shall be further governed by the provisions of sections 16-7-10(A) and 61-6-4160 of the South Carolina Code of Laws.

G. I hereby authorize DOR and SLED to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

Section 2. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. Pursuant to section 61-6-4160 of the South Carolina Code of Laws, “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.”

D. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

E. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 3. 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and

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property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 11th DAY OF JULY, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-46

WHEREAS, the undersigned has been notified of the passing of Major General (Retired) Stanhope S. Spears, Sr., who dutifully served as Adjutant General of South Carolina; and

WHEREAS, in addition to his distinguished and patriotic public service as Adjutant General of South Carolina for sixteen years, General Spears served with honor and distinction in the South Carolina National Guard for a total of fifty-one years, during which time he held various command posts and received numerous decorations and awards, including the Distinguished Service Medal, Legion of Merit, Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, National Defense Service Medal, Armed Forces Reserve Medal, Army Service Ribbon, Army Reserve Component Achievement Medal, Defense Meritorious Medal, State Longevity Ribbon, Safety Ribbon, Retired Medal, Secretary of Defense Medal, and Secretary of the Army Medal; and

WHEREAS, General Spears was a dedicated public servant, principled leader, and decorated soldier, and his passing warrants the people of this State further recognizing and appropriately honoring his extraordinary legacy and lifetime of service to the State of South Carolina and the United States of America; and

WHEREAS, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of the death of a present or former official of the government of any State, . . . the Governor of that State . . . may proclaim that the National flag shall be flown at half-staff”; and

WHEREAS, section 10-1-161(E) of the South Carolina Code of Laws, as amended, provides that “upon the death of a person of extraordinary stature, the Governor may order that the flags atop the State Capitol Building be lowered to half-staff at a designated time or for a designated period of time.”

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 of these United States and the powers conferred upon me therein, I hereby order that the flags atop the State Capitol Building be lowered to half-staff from sunrise until sunset on Friday, July 17, 2020, in honor of General Spears and in recognition of his extraordinary legacy and his distinguished service to the State of South Carolina and the United States of America. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 16th DAY OF JULY, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-47

WHEREAS, the undersigned has been notified of the passing of Captain John Durham, Jr. of the Winnsboro Department of Public Safety, who dutifully served as a law enforcement officer in this State and died in the line of duty; and

WHEREAS, Captain Durham dedicated his life to protecting and serving the people of the State of South Carolina and the residents of the Town of Winnsboro, and his loss warrants the people of this State appropriately recognizing his distinguished service and honoring his supreme sacrifice; and

WHEREAS, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of . . . the death of a first responder working in any State, territory, or possession who dies while serving in the line of duty, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff”; and

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

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Thursday, July 23, 2020, in tribute to Captain Durham and in honor of his selfless service, remarkable bravery, and supreme sacrifice in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 22nd DAY OF JULY, 2020.**

HENRY MCMASTER
Governor

Executive Order No 2020-48

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in coping with and mitigating the significant public health threat and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain flexible to account for the evolving and expanding nature of the public health emergency; and

WHEREAS, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

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WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, and 2020-44; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on May 18, 2020, the undersigned approved and signed H. 3411, R-140, Act No. 135 of 2020, as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; and

WHEREAS, although the above-referenced and other emergency measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an ongoing, evolving, and expanding public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

WHEREAS, as of July 26, 2020, DHEC has identified at least 80,856 confirmed cases of COVID-19 in the State of South Carolina, including 1,436 deaths due to COVID-19; and

WHEREAS, over the past several weeks, the State has continued to significantly increase the availability of, and access to, COVID-19 testing, and although the expansion of testing capability and capacity was expected to produce higher daily numbers of confirmed cases of COVID-19, DHEC has also noted substantial increases in the rate or percentage of positive test results, the number of newly reported cases among the 21–30 age group, and the number of hospital beds occupied by patients who have either tested positive or are under investigation for COVID-19; and

WHEREAS, as a result of South Carolina’s enhanced testing and tracing initiatives, DHEC has also identified additional “hot spots” in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

WHEREAS, due to the continued spread of COVID-19 and recent increases in the number of individuals hospitalized in connection with the same, the State of South Carolina must continue to take any and

all necessary and appropriate steps to address and minimize the resulting strain on healthcare facilities and resources; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

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WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, the State of South Carolina has made significant progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and expanded and now present different and additional threats, which must be dealt with on their own terms; and

WHEREAS, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the different and additional public health threats posed by COVID-19, as well as the continued need to, *inter alia*, mitigate the resulting strain on healthcare facilities and resources and deploy widespread testing and tracing initiatives, “require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

WHEREAS, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status and continued community spread and transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, the State of South Carolina must take additional proactive action to control the spread of COVID-19 and mitigate the impacts associated with the same, particularly on healthcare facilities and resources and certain portions of the State’s population; and

WHEREAS, it is imperative that the State of South Carolina continue to utilize extraordinary measures and deploy substantial resources to meet the unprecedented threat posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take

any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

WHEREAS, in addition to the foregoing, in further proactively preparing for and promptly responding to the continued spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State's economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

WHEREAS, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective "social distancing" practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned's responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, updated data, new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the ongoing COVID-19 pandemic, including the different, additional, and intensifying threats cited herein, represents and requires a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

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 declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

To prepare for and respond to the evolving and expanding public health threat posed by the COVID-19 pandemic and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and implement further extraordinary measures to prepare for, respond to, and address the ongoing and evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to "use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment."

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D. I hereby direct DHEC to restrict visitation to nursing homes and assisted living facilities, with the exception of end-of-life situations, as DHEC deems necessary and appropriate. I further direct DHEC to develop guidelines for nursing homes and assisted living facilities to allow for or facilitate limited visitation for immediate family members and to communicate the same to such facilities.

E. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

F. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

G. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division ("SLED") to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

H. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

I. I hereby declare that the provisions of the following Orders shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by prior or future Order: Executive Order Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, 2020-16, 2020-18, 2020-21, 2020-22, 2020-25, 2020-28, 2020-30, 2020-31, 2020-33, 2020-34, 2020-36, 2020-37, and 2020-45.

Section 2. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously undertaking additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must promptly undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 3. Transportation Waivers

To expedite the State of South Carolina's continued preparation for and response to the ongoing and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended.

B. I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's June 8, 2020 Extension and Modification of Expanded Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To

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order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

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

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 5. 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 26th DAY OF JULY, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-49

WHEREAS, the National Hurricane Center has determined from the latest forecast models that Hurricane Isaias may impact the southeastern region of the United States during the first week of August, 2020; and

WHEREAS, in preparing for and responding to Hurricane Isaias, many government agencies, non-profit organizations, and businesses will be supporting emergency management and relief operations in the southeastern region of the United States, and such efforts will require motor carriers, commercial vehicles, and drivers to travel in and through the State of South Carolina while transporting essential supplies, equipment, and persons to or from the impacted areas; and

WHEREAS, in particular, preparing for and responding to Hurricane Isaias will require the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal and essentials such as food, water, medicine and medical supplies, petroleum products, livestock and poultry, feed for livestock and poultry, and other agricultural products; and

WHEREAS, the uninterrupted supply of electricity, essential fuels and petroleum products, food, medicine and medical supplies, livestock and poultry, feed for livestock and poultry, and other agricultural products, to residential and commercial establishments is critical before, during, and after the impact of Hurricane Isaias, and any actual, potential, or perceived shortage or interruption in the availability, transportation, or delivery of such commodities and materials would pose a threat to the public welfare; and

WHEREAS, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*, and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

WHEREAS, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

WHEREAS, on July 11, 2020, the undersigned issued Executive Order No. 2020-44, declaring that a State of Emergency exists in the State of South Carolina in connection with COVID-19 and, *inter alia*, suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended; and

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WHEREAS, section 56-5-70(B) of the South Carolina Code of Laws provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

WHEREAS, on July 31, 2020, the Governor of North Carolina declared that a state of emergency exists in the State of North Carolina and temporarily suspended certain motor vehicle and transportation regulations in connection with Hurricane Isaias; and

WHEREAS, for the aforementioned reasons, and based on the latest forecast models for Hurricane Isaias, the undersigned has determined that it is necessary and prudent to provide additional regulatory flexibility to proactively assist in facilitating and supporting the operation of critical transportation services and preventing interruptions and delays in transporting essential supplies, equipment, and persons to or from areas that may be impacted by Hurricane Isaias.

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 of these United States and the powers conferred upon me therein, I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. I hereby authorize and direct the South Carolina Department of Transportation (“DOT”) and the South Carolina Department of Public Safety (“DPS”), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles responding to declared emergencies in connection with Hurricane Isaias or otherwise providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with Hurricane Isaias, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Order.

This Order shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, “a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location.” Likewise, this Order shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver’s license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

Section 2. This Order is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

A. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South

Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

B. Posted bridges may not be crossed.

C. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

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

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

This Order is effective immediately and shall remain in effect for thirty (30) days or until the state of emergency in the State of North Carolina is terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 1st DAY OF AUGUST, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-50

WHEREAS, the State of South Carolina must continue to take all necessary and appropriate actions in coping with and mitigating the evolving public health threat and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain focused on implementing and imposing targeted and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare facilities and resources; and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

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WHEREAS, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention (“CDC”), the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, “The President’s Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)” —to help protect Americans during the global COVID-19 outbreak; and

WHEREAS, the President’s Coronavirus Guidelines for America recommend, *inter alia*, that the American people “[w]ork or engage in schooling from home whenever possible”; “[a]void social gatherings in groups of more than 10 people”; “[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options”; and “[a]void discretionary travel, shopping trips, and social visits”; and

WHEREAS, on March 29, 2020, the President of the United States extended and expanded the provisions of his Coronavirus Guidelines for America based on the ongoing nature and evolving scope of the global COVID-19 pandemic; and

WHEREAS, on April 16, 2020, the President of the United States issued new Guidelines on Opening Up America Again, which contemplate individual States reopening in phases using a deliberate, data-driven approach tailored to address the situation in each State; and

WHEREAS, since declaring an initial State of Emergency on March 13, 2020, the undersigned has regularly conferred with the South Carolina Department of Health and Environmental Control (“DHEC”) and other state and federal public health agencies, officials, and experts and has issued numerous Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, and 2020-48; and

WHEREAS, in addition to issuing the above-referenced Orders and directing other emergency measures, the undersigned has consistently and repeatedly urged South Carolinians to practice effective “social distancing” and wear face coverings to limit community spread and transmission of COVID-19 and has further encouraged counties and municipalities of this State to enact or implement appropriate and narrowly tailored emergency ordinances, orders, or other measures requiring individuals to wear face coverings in public settings where they are, will be, or reasonably could be located in close proximity to others who are not members of the same household and where it is not feasible to maintain six (6) feet of separation from such individuals or to otherwise practice effective “social distancing” in accordance with CDC and DHEC guidance; and

WHEREAS, although the aforementioned and other emergency measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an ongoing and evolving public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the current public health emergency and mitigating the resulting burdens on healthcare facilities and resources; and

WHEREAS, over the past several weeks, the State has significantly increased the availability of, and access to, COVID-19 testing, and although the expansion of testing capability and capacity was expected to produce higher daily numbers of confirmed cases of COVID-19, DHEC has also noted substantial increases in the rate or percentage of positive test results, as well as the number of hospital beds occupied by patients who have either tested positive or are under investigation for COVID-19; and

WHEREAS, according to recent DHEC data, younger South Carolinians continue to account for a substantial portion of positive cases of COVID-19, and since June 1, 2020, there has been a 436.5% increase in newly reported COVID-19 cases among the 21–30 age group, representing 22% of the total confirmed cases of COVID-19 in the State, which is the largest percentage of positive cases by age group; and

WHEREAS, based on the latest data and developments, and after conferring with various state and federal public health agencies, officials, and experts regarding ongoing testing and tracing initiatives and the results thereof, the undersigned is informed that congregate settings in restaurants, bars, and other establishments, as well as large indoor and outdoor public gatherings, have been identified as sources of, or contributing factors to, substantial community spread and transmission of COVID-19; and

WHEREAS, in view of the foregoing, and in an effort to provide for and protect the health and welfare of the people of this State, the undersigned has determined that it is necessary and appropriate to implement and impose certain temporary, targeted, and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare resources, while also hopefully avoiding the need to resort to more restrictive means of addressing the same; and

WHEREAS, in addition to initiating additional proactive measures designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare resources, the undersigned has determined that it is necessary and appropriate to supersede, rescind, and replace certain prior Orders and to consolidate, restate, or otherwise incorporate, in whole or in part, any remaining provisions thereof to clarify which emergency measures remain in effect; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to

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control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, in addition to the foregoing authorities, pursuant to section 61-6-4160 of the South Carolina Code of Laws, as amended, “[i]t is unlawful to sell alcoholic liquors . . . during periods proclaimed by the Governor in the interest of law and order or public morals and decorum” and “[f]ull authority to proclaim these periods is conferred upon the Governor in addition to all his other powers”; and

WHEREAS, section 61-6-4160 of the South Carolina Code of Laws further provides that “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years”; and

WHEREAS, the Attorney General has previously opined that “[t]he obvious intent of [section 61-6-4160’s predecessor statute] is to afford the Governor the right to order the sale of alcoholic liquors to be discontinued during temporary periods of emergency” and that “[i]t is clear that [the Governor] ha[s] the authority . . . to order that the sale of liquors be prohibited at such places in the State in which, in [his] judgement, the interest of law and order and public morals and decorum, require such action,” 1968 WL 13075, at *1 (S.C.A.G. Apr. 27, 1968); and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s authority and responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined that the State of South Carolina must take additional proactive action and implement further extraordinary measures designed to slow the spread of COVID-19 and limit the resulting strain on healthcare resources.

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. Modification, Consolidation, and Continuation of Previous Emergency Measures

A. I hereby supersede, rescind, and replace the following Orders, as previously modified or amended: Executive Order Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, 2020-16, 2020-18, 2020-21, 2020-22, 2020-25, 2020-28, 2020-30, 2020-31, 2020-33, 2020-34, 2020-36, 2020-37, and 2020-45, with any remaining provisions thereof restated, in whole or in part, below or otherwise incorporated herein.

B. I hereby expressly rely upon and incorporate by reference the recitals and other specific factual findings, legal authorities, determinations, and conclusions contained in the above-referenced Orders.

Section 2. Emergency Requirements Regarding Face Coverings

A. I hereby urge counties and municipalities of this State to enact or implement appropriate and narrowly tailored emergency ordinances, orders, or other measures requiring individuals to wear a Face Covering, as set forth below and further defined herein, in public settings where they are, will be, or reasonably could be located in close proximity to others who are not members of the same household and where it is not feasible to maintain six (6) feet of separation from such individuals or to otherwise practice effective “social distancing” in accordance with CDC and DHEC guidance.

B. I hereby order and direct that effective Monday, August 3, 2020, at 5:00 p.m., individuals shall wear a Face Covering in state government offices, buildings, and facilities in accordance with guidelines and procedures developed and promulgated by the South Carolina Department of Administration (“Department of Administration”), as authorized herein, in consultation with DHEC.

C. Subject to any additional or supplemental clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated by the Department of Administration, the following persons or groups of persons shall not be required to wear a Face Covering in state government offices, buildings, and facilities:

1. A child who is two (2) years old or younger or a child whose parent, guardian, or responsible adult has been unable to place the Face Covering safely on the child’s face.
2. A person who is seeking to communicate with someone who is hearing-impaired in a manner that requires the mouth to be visible.
3. A person with a physical, mental, or behavioral health condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove a Face Covering without assistance) that prevents wearing a Face Covering, provided that a non-employee or visitor who represents that they cannot wear a Face Covering for one or more of these reasons should not be required to produce documentation or any other form of proof of such a condition.
4. A person who is actively engaged in eating or drinking or obtaining a service that requires access to or visibility of the face.
5. A person who is engaging in strenuous exercise or physical activity.
6. A person who is operating or occupying a vehicle alone or with other persons who are members of the same household.
7. A person who is voting or assisting with the administration of an election, although wearing a Face Covering is strongly encouraged.
8. A person who must remove a Face Covering for purposes of identification or security screening or surveillance.
9. A person who is incarcerated in a correctional institution or short-term detention facility, which shall be governed by the rules and regulations of the applicable agency, institution, or facility.
10. A person for whom wearing a Face Covering would create a risk to the health or safety of the person due to their occupation, job function, or work assignment where wearing a Face Covering would be inconsistent with industry safety standards or protocols or federal, state, or local regulations or guidelines.

D. For purposes of this Order, “Face Covering” shall mean a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is otherwise wrapped around the lower face. A

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Face Covering can be made of natural or synthetic fabrics and can be handmade or improvised from other items. A face shield that covers the nose and mouth and extends below the chin shall satisfy the Face Covering requirements of this Order. Medical-grade masks or respirators shall satisfy the Face Covering requirements of this Order; however, according to the latest CDC guidance, these critical supplies should be reserved for use by healthcare workers and medical first responders.

E. I hereby authorize the Department of Administration to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

F. This Section shall not apply to buildings or structures, or portions thereof, that are occupied or controlled by agencies, departments, officials, or employees of the Legislative or Judicial Branches of the State of South Carolina, which shall be governed by their respective orders, rules, or regulations.

Section 3. Emergency Restrictions Regarding Restaurant Operations

A. I hereby order and direct that any and all restaurants or other food-service establishments (collectively, "Restaurants"), as set forth below, which prepare, produce, or otherwise offer or sell food or beverages of any kind for on-premises consumption in the State of South Carolina, shall be subject to and shall adhere to the following restrictions and conditions of operation effective Monday, August 3, 2020, at 5:00 p.m.:

1. Restaurants that elect to provide indoor or outdoor customer dining services for on-premises or dine-in consumption, as authorized herein, shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidance, to limit exposure to, and prevent the spread of, COVID-19.

2. Restaurants shall require that all employees, customers, patrons, suppliers, vendors, and other visitors wear Face Coverings, as defined in Section 2(D) of this Order, except while actively engaged in eating or drinking, subject to any applicable exceptions set forth in Section 2(C)(1)–(10) of this Order.

3. Restaurants shall not permit the sale or consumption of beer, wine, or alcoholic liquor between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.

4. Restaurants shall not permit the number of customers and patrons receiving indoor, dine-in service on the Restaurant's premises at any given time to exceed fifty percent (50%) of the Restaurant's occupancy limit as determined by the fire marshal.

5. Restaurants shall space indoor and outdoor tables at least six (6) feet apart to ensure that customers and patrons are at least six (6) feet apart from any other party or group.

6. Restaurants shall limit seating at each table to no more than eight (8) customers and patrons, exclusive of family units or members of the same household.

7. Restaurants shall adopt and enforce a process to ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties while waiting to be seated. If there is any indoor or outdoor waiting area, Restaurants should use tape or other markings to help customers and patrons identify and maintain a minimum of six (6) feet of separation from other parties.

8. Restaurants shall not allow patrons and customers to stand or congregate in any bar area. Restaurants shall remove bar stools or arrange them in a manner that will ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties.

9. Restaurants shall post signage at each public entrance informing customers, patrons, suppliers, vendors, and other visitors that entry is prohibited for individuals who are experiencing symptoms of COVID-19 or who have tested positive for COVID-19 within the preceding fourteen (14) days.

10. Restaurants shall conduct, prior to or at the beginning of each shift, an employee survey and screening process, which should include taking each employee's temperature before they begin their shift and inquiring about common symptoms of COVID-19.

11. Restaurants should immediately excuse and exclude any employees indicating symptoms of COVID-19 or who have tested positive for COVID-19 or have been in contact with someone who has tested positive for COVID-19 within the preceding fourteen (14) days.

12. Restaurants should actively encourage and require employees who are sick, who have symptoms of COVID-19, who have tested positive for COVID-19, or who have recently had close contact with a person who has tested positive for COVID-19 to stay at home, and should develop policies to encourage any such employees to stay at home without fear of reprisal or adverse employment action on this basis.

13. Restaurants should remove common-use condiments, such as salt, pepper, and ketchup, from tables. These items should be provided upon request and cleaned and sanitized between uses if single-use options are not available.

14. Restaurants should not place utensils on a table until after a customer or patron is seated and, if possible, should offer disposable single-use utensils.

15. Restaurants should utilize disposable paper menus if possible or sanitize menus after each use.

16. Restaurants shall use approved sanitizing solutions to clean tables, chairs, and check presenters after each table turn or seating.

17. Restaurants shall provide a cleaning station or alcohol-based hand sanitizer at all entry points.

18. Restaurants shall discontinue self-service buffets or food stations to prevent customers and patrons from reusing service utensils to avoid potential physical contamination; however, employees may be permitted to dispense food via cafeteria-style buffet service.

19. Restaurants shall discontinue services that allow customers and patrons to fill or refill their own beverage cups.

20. Restaurants shall sanitize all doorknobs and other shared or frequently touched surfaces as much as possible between newly arriving parties with approved sanitizing solutions.

21. Restaurants should only use kiosks or touch screens for customers and patrons if they can be sanitized between uses and should encourage touchless payment operations like credit cards with no signature required.

B. Notwithstanding the foregoing restrictions and conditions of operation, Restaurants are authorized and encouraged to prepare, produce, or otherwise offer or sell food or beverages for off-premises consumption to the extent currently authorized, permitted, or otherwise allowed by law, whether via delivery, carry-out or drive-thru distribution, curbside pick-up, or other alternate means.

C. For purposes of this Section, “Restaurants” are defined as “retail food establishment[s],” pursuant to citation 1-201.10(B)(106) of Regulation 61-25 of the South Carolina Code of Regulations, licensed or permitted by DHEC in accordance with section 44-1-140 of the South Carolina Code of Laws, as amended, or other applicable law, with the exception of “independent living food service operations” or “licensed healthcare facilities,” which are expressly excluded from the definition of Restaurants. This Section does not direct the closure of retail beverage venues that currently provide for the sale of alcoholic beverages for off-site consumption and does not require the closure of production operations or wholesale distribution at breweries, wineries, or distilleries. Notwithstanding the foregoing, to the extent that Restaurants are licensed or permitted by the South Carolina Department of Revenue (“DOR”) for the on-premises sale of “alcoholic liquors” or “alcoholic beverages,” as defined by section 61-6-20(1)(a) of the South Carolina Code of Laws, as amended, DOR and the South Carolina Law Enforcement Division (“SLED”) are authorized to administer the provisions of this Order, and enforce compliance with the same, as necessary and appropriate. Pursuant to section 1-23-370(c) of the South Carolina Code of Laws, as amended, “[i]f the agency finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action.”

D. I hereby authorize and encourage law enforcement officials to enforce the provisions of this Section in accordance with Section 14 of this Order. In addition to the authorities set forth in Section 14 of this Order, noncompliance with this Section shall also be governed by the provisions of section 16-7-10(A) of the

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South Carolina Code of Laws. I further authorize DHEC, DOR, and SLED to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Section shall not be interpreted, applied, implemented, or construed in a manner so as to limit the ability of Restaurants to impose additional restrictions or to prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws, regulations, orders, or ordinances in removing individuals at the request of businesses or property owners.

Section 4. Emergency Restrictions on Gatherings

A. I hereby urge any and all residents and visitors of the State of South Carolina to practice “social distancing” in accordance with CDC guidance and take precautions to avoid potential exposure to, and to slow the spread of, COVID-19.

B. Subject to any additional or supplemental clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated by the South Carolina Department of Commerce (“Department of Commerce”), as authorized herein, I hereby order and direct that effective Monday, August 3, 2020, at 5:00 p.m., the following categories or types of businesses, facilities, venues, services, activities, events, or mass gatherings (collectively, “Gathering”), as set forth and further defined below, shall be subject to and shall adhere to the following restrictions and conditions:

1. The total number of employees, customers, patrons, suppliers, vendors, visitors, or other persons present for or in attendance at the Gathering shall not exceed fifty percent (50%) of the location’s occupancy limit as determined by the fire marshal, if applicable, or two hundred fifty (250) persons, whichever is less.

2. All employees, customers, patrons, suppliers, vendors, visitors, or other persons in attendance at the Gathering shall wear a Face Covering, as defined in Section 2(D) of this Order, subject to any applicable exceptions set forth in Section 2(C)(1)–(10) of this Order, as a condition of entry or participation.

3. The sale or consumption of beer, wine, or alcoholic liquor shall be prohibited at any Gathering between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.

4. The organizers, operators, owners, or hosts of, or other parties responsible for, a Gathering shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation, “social distancing,” and hygiene guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidance, to limit exposure to, and prevent the spread of, COVID-19.

C. For purposes of this Section, a “Gathering” shall be defined as a planned or spontaneous indoor or outdoor event that involves or is reasonably expected to involve a large number of people physically present, congregating together, or otherwise simultaneously in attendance at a single indoor or outdoor location and shall include, but not be limited to, the following: festivals, parades, concerts, theaters, stadiums, arenas, coliseums, auditoriums, grandstands, event venues, dance halls, concert halls, amphitheaters, gymnasiums, chambers, assemblies, nightclubs, performing arts centers, parks, racetracks, or similarly situated or operated businesses, facilities, venues, services, activities, events, or mass gatherings, the occurrence or resulting impacts of which could strain the public health, planning, and response resources of the community hosting the same. A Gathering shall not include individuals collectively performing or assisting with military, healthcare, public safety, or emergency response operations, as well as any other operations or services identified by the United States Cybersecurity and Infrastructure Security Agency in its March 28, 2020 Memorandum, or any future amendments or supplements thereto, as essential to continued critical infrastructure viability in connection with COVID-19. A Gathering shall not include the normal operations of public and private schools and higher education institutions or religious activities or services, including those conducted in churches, synagogues, or other houses of worship.

D. I hereby authorize and direct the Department of Commerce, in consultation with DHEC, to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section and to provide clarification, as necessary and appropriate and in accordance with the process set forth below, regarding the application of this Section to any particular Gathering(s), or exceptions for any particular Gathering(s).

E. The organizers, operators, owners, or hosts of, or other parties responsible for, any Gathering(s) may seek clarification regarding the application of this Section to any particular Gathering(s), or exceptions for any particular Gathering(s), from the Department of Commerce using a form provided by the Department of Commerce, which shall be available for public access and submission via the Department of Commerce's website, at www.sccommerce.com. Individuals or entities may also submit questions or requests for clarification or exceptions to the Department of Commerce by email to covid19sc@sccommerce.com or by telephone at 803-734-2873. A team from the Department of Commerce will review each request for clarification or an exception and provide a response with the Department of Commerce's determination within twenty-four (24) hours of receipt.

F. The Department of Commerce shall review any requests for clarification regarding the applicability of this Section to any particular Gathering(s) or any requests for an exception for any particular Gathering(s) and shall evaluate the same, in consultation with DHEC, and make a determination regarding whether the Gathering(s) may proceed, in whole or in part, on a normal or modified basis. The Department of Commerce shall grant exceptions only upon a thorough and satisfactory demonstration that any particular Gathering(s) will comply with, and operate according to, any applicable sanitation, "social distancing," and hygiene guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials. Any determination issued by the Department of Commerce shall be deemed and considered provisional and shall be subject to revision, alteration, or revocation at any point, and in the sole discretion of the Department of Commerce, based on and to account for, *inter alia*, the evolving nature and scope of the ongoing public health emergency associated with COVID-19.

G. This Section does not apply to the conduct of official business by, or meetings of, any agency or department of the State of South Carolina or any political subdivision thereof, to include the operations of public schools and higher education institutions and the conduct of elections and related activities.

Section 5. Emergency Restrictions Regarding Alcoholic Beverages at Restaurants, Bars, and Other Establishments After 11:00 p.m.

A. I hereby determine and proclaim, pursuant to section 61-6-4160 of the South Carolina Code of Laws and other applicable law, that it is necessary and appropriate and "in the interest of law and order" and "public morals and decorum" to prohibit the sale of beer, wine, and alcoholic liquor under certain conditions and during certain periods, as set forth below, to address and reduce instances of community spread and transmission of COVID-19 among individuals congregating in restaurants, bars, and other establishments, to mitigate the resulting burdens on healthcare facilities and resources, and to maintain peace and good order during the State of Emergency.

B. I hereby order and direct that the sale or consumption of beer, wine, or alcoholic liquor on the licensed premises of all persons or businesses authorized to sell beer, wine, or alcoholic liquor in the State of South Carolina (collectively, "Licensees"), as set forth below, shall remain prohibited between the hours of 11:00 p.m. and 10:00 a.m. the following day, as previously set forth in Executive Order No. 2020-45, for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded by subsequent Order.

C. For purposes of this Section, "beer, wine, and alcoholic liquors" shall refer to those alcoholic beverages as defined in Chapters 4 and 6 of Title 61 of the South Carolina Code of Laws, as amended. For

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purposes of this Section, “Licensees” include only those persons or businesses holding the following permits or licenses issued by DOR pursuant to Title 61 of the South Carolina Code of Laws:

1. On-Premises Beer and Wine Permits (PBW) or 7-Day On-Premises Beer and Wine Permit (PO7);
2. Instate Winery Permit (PWY), Domestic Winery Permit (PDW), or 7-Day Winery Permit (P7W);
3. Brewpub Beer Permit (PBB);
4. Brewery Permit (PWY);
5. Business Liquor by the Drink License (PLB);
6. Non-Profit Private Club Liquor by the Drink License (PLC); or
7. Special Event Permit or Special Non-Profit Event Permit.

This Section does not limit the hours of sales for beer, wine, or alcoholic liquors for off-premises consumption, which shall continue to be governed by existing law.

D. Pursuant to sections 1-3-430 and 1-3-440 of the South Carolina Code of Laws, the undersigned is authorized to enforce the provisions of this Order “by use of all appropriate available means,” to include, *inter alia*, “[o]rder[ing] any and all law enforcement officers of the State or any of its subdivisions to do whatever may be deemed necessary to maintain peace and good order” and “order[ing] or direct[ing] any State, county[,] or city official to enforce the provisions of such proclamation in the courts of the State by injunction, mandamus, or other appropriate legal action.”

E. I hereby authorize, order, and direct DOR and SLED to administer the provisions of this Order and enforce compliance with the same as necessary and appropriate. Noncompliance with this Section shall constitute grounds for suspension of a license or permit in accordance with the provisions of Title 61, including but not limited to sections 61-4-580, 61-6-50, and 61-6-100, as amended. Pursuant to the process established in section 1-23-370(c) of the South Carolina Code of Laws, as amended, if DOR “finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings.” Unless otherwise provided by DOR, any summary suspension under this Section will be effective for at least the duration of this Order and any amendments to or extensions of the same. Notwithstanding the foregoing, this Section does not prevent or prohibit DOR from seeking or imposing additional penalties as authorized by law if warranted by the Licensee’s actions. I hereby further order and direct DOR, upon suspension of a license or permit for noncompliance with this Section, to promptly institute proceedings in the Administrative Law Court to review the summary suspension, as required by section 1-23-370(c).

F. In addition to the foregoing authorities, noncompliance with this Section shall be further governed by the provisions of sections 16-7-10(A) and 61-6-4160 of the South Carolina Code of Laws. Pursuant to section 61-6-4160 of the South Carolina Code of Laws, “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.”

G. I hereby authorize DOR and SLED to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

Section 6. Regulatory Flexibility to Accelerate Emergency Preparation and Response Measures

A. I hereby authorize and direct any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or "suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency," in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law.

B. I hereby authorize and direct state agencies and departments to use the emergency procurement procedures set forth in section 11-35-1570 of the South Carolina Code of Laws, as amended, and any regulations issued pursuant thereto, as necessary and appropriate, to facilitate and expedite acquisition of any critical resources during the State of Emergency.

C. I hereby suspend, in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law, any existing procurement-related regulations "if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency."

Section 7. Regulatory Flexibility and Other Emergency Measures to Expedite the Provision of Critical Healthcare Services

A. I hereby authorize and direct DHEC to suspend, for the duration of the State of Emergency, pursuant to Regulation 61-112 of the South Carolina Code of Regulations, any necessary and applicable provisions of Regulations 61-15 and 61-16, which restrict the use of unlicensed beds or space, the conversion of single and double occupancy patient rooms to account for higher patient capacity, or the establishment of wards, dormitories, or other spaces not designated as patient rooms.

B. I hereby suspend the monetary thresholds set forth in Section 102 of Regulation 61-15 of the South Carolina Code of Regulations for items requiring Certificate of Need Review, to the extent necessary and applicable, so as to permit healthcare facilities to make those capital expenditures and acquire medical equipment deemed necessary to prevent, diagnose, treat, or monitor the progression of COVID-19.

C. I further direct DHEC to suspend certain sections of the South Carolina Health Plan addressing health services requiring Certificate of Need Review, as DHEC deems necessary and appropriate, to allow a healthcare facility to provide temporary health services to adequately care for patients that may be affected by COVID-19. Healthcare facilities shall address any such requests pursuant to this Section to DHEC and coordinate with DHEC regarding the same.

D. I hereby direct the Adjutant General to continue implementing and overseeing efforts to coordinate with, between, and among the South Carolina National Guard and hospitals or other healthcare providers, as necessary and applicable, regarding any actual or potential requirements for, or contingency plans related to, the mobilization, utilization, or acquisition of resources; the creation, modification, or construction of mobile or temporary facilities or other critical infrastructure; or other anticipated or unanticipated matters related to the State's preparation for, and response to, the evolving public health threat posed by COVID-19. In accordance with section 25-1-1840 of the South Carolina Code of Laws, Executive Order No. 2020-48, and other applicable law, I further authorize and direct the Adjutant General to activate and utilize any and all South Carolina National Guard personnel and equipment he deems necessary and appropriate and to issue the requisite supplemental orders.

Section 8. Regulatory Flexibility to Facilitate "Social Distancing" in Restaurants and Retail Settings

A. I have determined that the State of South Carolina must continue to undertake and implement additional measures to slow the spread of COVID-19, minimize the current and future strain on healthcare providers, and mitigate the economic impacts on affected individuals and businesses. In furtherance of the

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foregoing, and in accordance with the President's Coronavirus Guidelines for America, the State must promote and facilitate effective "social distancing" practices, including "[a]void[ing] eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options."

B. I hereby suspend Regulation 7–702.5 of the South Carolina Code of Regulations, which provides, in pertinent part, that "[a] permit holder, employee of a permit holder, or agent of a holder must not sell or deliver beer or wine to anyone who remains in a motor vehicle during the transaction."

C. I hereby authorize and direct DOR to implement, interpret, and apply the provisions of this Order, as necessary and appropriate and in accordance with and to the extent allowed by state and federal law, in a manner that will facilitate current holders of a valid Beer and Wine Permit ("Permit"), as set forth below, selling or delivering beer and wine in a sealed container for curbside delivery or pickup and off-premises consumption.

D. Subject to any further clarification, guidance, or regulations issued or promulgated by DOR, Permit holders electing to offer curbside delivery or pickup shall be subject to the following definitions, conditions, and restrictions:

1. For purposes of this Section, "Permit" is defined as an on- or off-premises permit issued by DOR in accordance with Title 61, Chapter 4 of the South Carolina Code of Laws, with the exception of "special event" permits, for use at fairs and special functions, issued pursuant to section 61-4-550 of the South Carolina Code of Laws, as amended.

2. A retailer shall have a clearly designated delivery or pickup area abutting or adjacent to the retailer's place of business.

3. A customer who purchases beer or wine must prove at the time of curbside delivery or pickup that he is twenty-one (21) years of age or older by providing a valid government-issued identification.

4. A retailer shall not allow curbside delivery of beer or wine to, or pickup of beer or wine by, an intoxicated person or a person who is under twenty-one (21) years of age.

5. Any Permit holder's employee or agent who is responsible for delivering beer or wine in sealed containers for off-premises consumption to a customer's vehicle shall be eighteen (18) years of age or older.

6. Curbside delivery or pickup of "alcoholic liquors," as defined by section 61-6-20 of the South Carolina Code of Laws, as amended, shall be prohibited.

Section 9. Emergency Measures to Ensure the Continuity of Essential Government Operations and Emergency Services and to Provide for the Health and Safety of State Employees

A. I hereby direct that all non-essential employees and staff of the State of South Carolina, as described below, shall not report to work, physically or in-person, until further notice. For purposes of this Section, essential employees and staff are those designated by, and in the sole discretion of, the corresponding Agency Head, or their designee, as essential or mission-critical to the State's ongoing preparation for and response to emergency conditions related to COVID-19 or otherwise necessary to serving the State of South Carolina by ensuring the continuity of critical operations of state government. Essential employees and staff may still be required to report to work as determined by, and in the sole discretion of, the corresponding Agency Head or their designee. Notwithstanding the foregoing or any previous event-specific employment classifications or designations, for purposes of this emergency, essential may be defined differently than it has been defined or applied in the context of hazardous weather events. In accordance with prior directives, as well as related guidance issued by the Department of Administration, state agencies and departments shall utilize, to the maximum extent possible, telecommuting or work-from-home options for non-essential employees and staff. This Section shall apply to state government agencies, departments, and offices under the authority of the undersigned. I further direct the Department of Administration to continue to provide any necessary and

appropriate supplemental guidance to such agencies, departments, and offices and to any additional agencies, departments, and offices so as to facilitate and expedite implementation of these initiatives.

B. I hereby prohibit any county, municipality, or other political subdivision of the State of South Carolina from closing any location or facility that is occupied or utilized, in whole or in part, by any agency, department, official, or employee of the State. Accordingly, pursuant to sections 1-3-410, 25-1-440, and 25-1-450 of the South Carolina Code of Laws, as well as other applicable law, I hereby direct that any such county, municipality, or other political subdivision of this State shall authorize, allow, and provide access to such locations or facilities by any state agency or department, and the officials and employees thereof, as deemed necessary and appropriate and in the manner prescribed by the state agency or department so as to ensure the uninterrupted performance and provision emergency, essential, or otherwise mission-critical government functions and services during the State of Emergency.

Section 10. Emergency Restrictions Regarding Public Beach Access Points

A. I hereby authorize any agency, department, county, municipality, or political subdivision of the State owning, operating, managing, or otherwise having jurisdiction and control over any public beach access points to close, in whole or in part, or otherwise restrict the use of any such public beach access points, to include any adjacent or associated public parking lots or facilities, if it is determined that such action is necessary to preserve or protect public health. This authorization shall remain in effect for the duration of the State of Emergency, unless otherwise modified, amended, extended, or rescinded by subsequent Order.

B. I hereby authorize DHEC to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

Section 11. Extension of Emergency Measures for Unemployment Claims and Benefits

A. The State of South Carolina must continue to undertake and implement additional measures to prepare for and respond to the economic impacts associated with COVID-19 and to mitigate the resulting burdens on individuals and businesses. In recognition of the complexities posed by the existing and anticipated emergency circumstances, the United States Department of Labor (“DOL”) issued Unemployment Insurance Program Letter No. 10-20 on March 12, 2020 (“DOL Letter No. 10-20”), providing guidance to states and state workforce agencies on various matters regarding unemployment benefits and “flexibilities related to COVID-19,” and in doing so, recommended, *inter alia*, that “states should consider temporarily waiving” state-specific requirements related to waiting periods for individuals who are otherwise eligible for unemployment benefits. Accordingly, to facilitate and expedite the processing of claims submitted by eligible individuals whose employment has been impacted a result of COVID-19, and in response to DOL Letter No. 10-20’s recommendation, the undersigned issued Executive Order No. 2020-11 on March 19, 2020, directing, *inter alia*, the South Carolina Department of Employment and Workforce (“DEW”) to waive application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits or to determine that otherwise eligible individuals submitting claims between March 15, 2020, and April 18, 2020, in response to the unique circumstances and public health threat presented by COVID-19 “cannot pursue other employment for the usual one week’s waiting period and that the terms of the [applicable] statute cannot be met in such an unusual and limited circumstance,” 1989 S.C. Op. Att’y Gen. 286 (Oct. 3, 1989). Subsequently, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Public Law No. 116–136, Title II, Subtitle A of which provides, *inter alia*, temporary full federal funding of the first week of state unemployment insurance benefits for states that do not have a waiting week or have waived any waiting-week requirement.

B. I hereby direct DEW to waive, on a temporary basis and consistent with the aforementioned DOL guidance, application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits, pursuant to section 41-35-110(4) of the South Carolina Code of Laws, as amended, or

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alternatively, to determine that otherwise eligible individuals submitting claims in response to or associated with the unique circumstances and public health threat presented by COVID-19 “cannot pursue other employment for the usual one week’s period and that the terms of the statute cannot be met in such an unusual and limited circumstance.” 1989 S.C. Op. Att’y Gen. 286 (Oct. 3, 1989). If and to the extent allowed by state and federal law, I further instruct DEW to implement, interpret, and apply the foregoing directives, as necessary and appropriate, in a manner that will facilitate and expedite the processing of claims submitted by eligible individuals who have suffered an unanticipated separation from employment or reduction of hours. Subject to any additional or supplemental guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DEW, and to the maximum extent permitted by state and federal law, this Section shall apply to claims submitted on or after April 19, 2020, and for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded. Notwithstanding the foregoing, this Section shall not be construed to limit DEW’s authority, to the extent allowed by state and federal law, to extend the period of any such temporary waivers or determinations to account for exigent circumstances.

Section 12. Extension of Prior Authorization for COVID-19 Support Payments by Employers

A. I have determined that the State of South Carolina must continue to undertake and implement additional measures to prepare for and respond to the economic impacts associated with COVID-19 and to mitigate the resulting burdens on individuals and businesses in the State of South Carolina. Many South Carolina employers have been financially strained by the significant economic impacts associated with COVID-19, which will negatively affect the ability of many employers to sustain operations at current levels. As a result of such operational reductions, businesses in this State may be required to furlough current employees. For purposes of this Section, a “furlough” shall mean and refer to a temporary period of time during which an employee performs no personal services for the employer as a result of a layoff caused by the economic impacts of COVID-19. Employers have stated that furloughs may be necessary to sustain an adequate level of working capital and to maintain a ready workforce in preparation for resuming operations when the risks associated with COVID-19 have dissipated. In acknowledging that employees may need to be furloughed due to the ongoing and anticipated economic impacts associated with COVID-19, some employers have indicated a desire to offset the financial impacts of such furloughs by making voluntary COVID-19-related support payments (“COVID-19 Support Payments”), as set forth below, to certain employees.

B. For purposes of this Section, “COVID-19 Support Payments” shall mean a voluntary payment, or series of payments, made by an employer to an employee in response to furloughing the employee, which is for services rendered by the employee in the past, which the employee or the employee’s estate is not obligated to repay, which is provided without obligation for the employee to perform or not perform any act in connection with the individual’s status as an employee, and which is made pursuant to a plan provided to DEW on a form that DEW shall prepare and publish on its website (“COVID-19 Support Payments Plan”), as set forth below and further defined herein. COVID-19 Support Payments shall be classified as a form of severance pay. South Carolina courts have interpreted severance pay as a form of payment for services previously rendered and, thus, not “wages” as that term is currently defined in section 41-27-380 of the South Carolina Code of Laws. See *S. Bell Tel. & Tel. Co. v. S.C. Employment Sec. Comm’n*, 240 S.C. 40, 45, 124 S.E.2d 505, 507 (1962). Classification of COVID-19 Support Payments as non-wages will ensure that such payments do not reduce the unemployment benefits an otherwise eligible individual would be entitled to receive, in accordance with the terms of prior Orders and as otherwise provided by law.

C. A COVID-19 Support Payments Plan submitted to DEW must detail the anticipated length of the furlough, state the amount of the COVID-19 Support Payments, identify the names of the employees receiving the COVID-19 Support Payments, and include an attestation that the employer is not making the COVID-19 Support Payments as a form of remuneration for the employees’ performance of personal services during the furlough and that employees are not required to return or repay the COVID-19 Support Payments. Further, employers shall file employer-filed unemployment insurance claims, according to guidance provided by DEW, for each employee receiving COVID-19 Support Payments. A COVID-19 Support Payments Plan that

satisfies the requirements set forth herein is not required to be approved by DEW prior to an employer making COVID-19 Support Payments.

D. I hereby authorize and direct DEW to interpret furloughed recipients of COVID-19 Support Payments as unemployed, pursuant to section 41-27-370 of the South Carolina Code of Laws and Regulation 47-20 of the South Carolina Code of Regulations, in response to or associated with the unique circumstances and public health threat presented by COVID-19. I further authorize and instruct DEW to implement, interpret, and apply the foregoing directives, as necessary and appropriate, in a manner such that an employee will not be considered as having been overpaid unemployment insurance benefits solely because the employee received COVID-19 Support Payments pursuant to a COVID-19 Support Payments Plan. Subject to any further clarification or guidance issued by DEW, and to the maximum extent permitted by state and federal law, this Section shall apply to any COVID-19 Support Payments paid by an employer for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded.

Section 13. Emergency Measures to Facilitate Law Enforcement Assistance and Support

A. I hereby authorize law enforcement agencies or departments in this State to enter into mutual aid agreements in connection with the State of Emergency, pursuant to Title 23, Chapter 20 of the South Carolina Code of Laws, “for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines, including, but not limited to, multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations.”

B. In accordance with section 23-20-60 of the South Carolina Code of Laws, as amended, I hereby waive the requirement for a written mutual aid agreement for law enforcement services for the duration of the State of Emergency.

Section 14. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the State of Emergency.

B. I hereby authorize, order, and direct any and all law enforcement officers of the State, or any political subdivision thereof, in accordance with section 16-7-10 of the South Carolina Code of Laws and other applicable law, to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in their discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.” I further authorize and instruct SLED, in consultation with the Attorney General of South Carolina, to provide any necessary and appropriate additional or supplemental guidance to law enforcement agencies, departments, or officers of the State, or any political subdivision thereof, regarding the interpretation, application, or enforcement of section 16-7-10 of the South Carolina Code of Laws.

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

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D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 15. 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

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 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 for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2nd DAY OF AUGUST, 2020.**

HENRY MCMASTER
Governor

Executive Order No. 2020-51

WHEREAS, there presently exists a vacancy in the office of Treasurer of Cherokee County due to the retirement of Jackie W. Williams, effective June 30, 2020; and

WHEREAS, in the event of a vacancy in the office of a county treasurer, the undersigned is authorized to appoint a suitable person, who shall be an elector of the county, to serve as county treasurer pursuant to sections 1-3-220(2), 4-11-20(1), and 12-45-20 of the South Carolina Code of Laws, as amended; and

WHEREAS, J. Ryan Thomas, of Gaffney, South Carolina, is a fit and proper person to serve as Treasurer of Cherokee County.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint J. Ryan Thomas to serve as Treasurer of Cherokee County until his successor is appointed or elected and qualified as provided by law. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 5th DAY OF AUGUST, 2020.**

**HENRY MCMASTER
Governor**

Executive Order No. 2020-52

WHEREAS, the undersigned has been notified of the passing of Matthew James Clancy, Chief of Police for the Beaufort Police Department; and

WHEREAS, in addition to his distinguished service as Chief of Police for the Beaufort Police Department, Chief Clancy previously served the State of South Carolina in various other capacities over the course of his twenty-seven-year career in law enforcement, both with the Beaufort Police Department and with the Beaufort County Sheriff's Office; and

WHEREAS, prior to his decorated and distinguished law enforcement career, Chief Clancy served honorably in the United States Marine Corps; and

WHEREAS, Chief Clancy was a dedicated public servant, principled leader, and beloved father and family man, and his passing warrants the people of this State further recognizing and appropriately honoring his extraordinary legacy and lifetime of service to the State of South Carolina; and

WHEREAS, section 10-1-161(E) of the South Carolina Code of Laws, as amended, provides that "upon the death of a person of extraordinary stature, the Governor may order that the flags atop the State Capitol Building be lowered to half-staff at a designated time or for a designated period of time."

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 of these United States and the powers conferred upon me therein, I hereby order that the flags atop the State Capitol Building be lowered to half-staff from sunrise until sunset on Friday, August 7, 2020, in honor of Chief Clancy and in recognition of his extraordinary legacy and lifetime of service to the State of South Carolina. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 6th DAY OF AUGUST, 2020.**

**HENRY MCMASTER
Governor**

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Executive Order No. 2020-53

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in coping with the significant public health threat and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain flexible to account for evolving conditions and focus on implementing targeted and narrowly tailored emergency measures designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare facilities and resources; and

WHEREAS, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, and 2020-48; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on May 18, 2020, the undersigned approved and signed H. 3411, R-140, Act No. 135 of 2020, as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; and

WHEREAS, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating,

or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

WHEREAS, although the above-referenced and other emergency measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an ongoing, evolving, and expanding public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

WHEREAS, as of August 10, 2020, DHEC has identified at least 100,431 confirmed cases of COVID-19 in the State of South Carolina, including 1,966 deaths due to COVID-19; and

WHEREAS, over the past several weeks, the State has significantly increased the availability of, and access to, COVID-19 testing, and although the expansion of testing capability and capacity was expected to produce higher daily numbers of confirmed cases of COVID-19, DHEC has continued to report a substantial number of confirmed cases of COVID-19, particularly among the 21–30 age group, as well as a large number of hospital beds utilized or occupied by patients who have either tested positive or are under investigation for COVID-19; and

WHEREAS, as a result of South Carolina’s enhanced testing and tracing initiatives, DHEC has also identified additional “hot spots” in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

WHEREAS, due to the continued spread of COVID-19 and the significant number of individuals hospitalized in connection with the same, the State of South Carolina must continue to take any and all necessary and appropriate steps to address and minimize the resulting strain on healthcare facilities and resources; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

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WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at *1 (S.C.A.G. Sept. 5, 1980); and

WHEREAS, the State of South Carolina has made significant progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and expanded and now present different and additional threats, which must be dealt with on their own terms; and

WHEREAS, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the different and additional public health threats posed by COVID-19, as well as the continued need to, *inter alia*, mitigate the resulting strain on healthcare facilities and resources and deploy widespread testing and tracing initiatives, “require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

WHEREAS, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status and continued community spread and transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, the State of South Carolina must take additional proactive action to control the spread of COVID-19 and mitigate the impacts associated with the same, particularly on healthcare facilities and resources and certain portions of the State’s population; and

WHEREAS, it is imperative that the State of South Carolina continue to utilize extraordinary measures and deploy substantial resources to meet the unprecedented threat posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

WHEREAS, in addition to the foregoing, in further proactively preparing for and promptly responding to the continued spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

WHEREAS, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective “social distancing” practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, updated data, new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the ongoing COVID-19 pandemic, including the different, additional, and intensifying threats cited herein, represents and requires a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

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 declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

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To prepare for and respond to the evolving public health threat posed by the COVID-19 pandemic and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and implement further extraordinary measures to prepare for, respond to, and address the ongoing and evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby direct DHEC to restrict visitation to nursing homes and assisted living facilities, with the exception of end-of-life situations, as DHEC deems necessary and appropriate. I further direct DHEC to develop guidelines for nursing homes and assisted living facilities to allow for or facilitate limited visitation for immediate family members and to communicate the same to such facilities.

E. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

F. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

G. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

H. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

I. I hereby declare that the provisions of Executive Order No. 2020-50 are hereby extended and shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by future Order.

Section 2. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously implementing proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must promptly undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 3. Transportation Waivers

To expedite the State of South Carolina's continued preparation for and response to the ongoing and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended.

B. I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's July 13, 2020 Extension of the Modified Expanded Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the

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commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law. Notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

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

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

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act,

codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

Section 5. 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF AUGUST, 2020.**

**HENRY MCMASTER
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **August 28, 2020** for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201 at (803) 545-3495.

Affecting Charleston County

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

Establishment of Level III NICU services through conversion of 6 Level II intermediate care bassinets to Level III intensive care bassinets for a total of 10 Level II bassinets and 6 Level III bassinets at a total project cost of \$287,648.

Affecting Chester County

Personal Home Care of North Carolina, LLC d/b/a PHC-SC

Establishment of a Home Health Agency in Beaufort County at a total project cost of \$30,396.

Affecting Horry County

McLeod Loris Seacoast Hospital d/b/a McLeod Health Carolina Forest

Construction of a 48-bed acute care hospital to include MRI scanner at a total project cost of \$56,251,076.

McLeod Loris Seacoast Hospital d/b/a McLeod Health Seacoast

Establishment of Emergent and Elective PCI services at a total project cost of \$1,301,230.

Affecting Lancaster County

Personal Home Care of North Carolina, LLC d/b/a PHC-SC

Establishment of a Home Health Agency in Lancaster County at a total project cost of \$35,594.

Affecting Lexington County

Lexington County Health Services District, Inc. d/b/a Lexington Medical Center

Addition of a fifth cardiac catheterization lab to the existing Cardiac Cath Department at a total project cost of \$2,902,219.

Affecting Orangeburg County

The Regional Medical Center of Orangeburg and Calhoun Counties d/b/a Regional Medical Center

Purchase of a da Vinci XI robotic surgical system at total project cost of \$2,568,338.

Affecting Richland County

RADDON d/b/a Midlands Cancer Center

Establishment of a new Outpatient Radiation Therapy Center with one Tomotherapy linear accelerator at a total project cost of \$7,963,272.

Affecting York County

Encompass Health Rehabilitation Hospital of Fort Mill, LLC

Construction for the establishment of a 39 bed Freestanding Inpatient Rehabilitation Hospital in York county at a total project cost of \$36,659,910.

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

Renovation of existing 3,100 sf to convert an existing cardiac catheterization lab to a hybrid operating room at a total project cost of \$4,978,827.

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 **August 28, 2020**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Charleston County

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

Purchase of two (2) da Vinci XI robotic surgical systems one additional and one replacement at total project cost of \$5,690,298.

Affecting Horry County

Conway Hospital, Inc, d/b/a Conway Medical Center

Renovation of 10,981 sf for the establishment of a 12-bed inpatient rehabilitation unit at a total project cost of \$3,988,056.

Conway Hospital, Inc. d/b/a Conway Medical Center - Carolina Forest

Construction for the establishment of a 50-bed acute care hospital in Horry County through transfer of 50 licensed hospital beds from Conway Medical Center at a total project cost of \$160,832,776.

Affecting Richland County

Encompass Health Rehabilitation Hospital of Irmo, LLC

Construction for the establishment of a 50 bed Freestanding Inpatient Rehabilitation Hospital in Richland county at a total project cost of \$36,661,437.

Affecting York County

Carolina Cardiology Associates, PA (CCA)

Construction of a 4415-sf single specialty Ambulatory Surgery Center specializing in Cardiac Vascular procedures with one Operating Room at a total project cost of \$2,031,975.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File # 400869
Capsugel Site

**NOTICES OF VOLUNTARY CLEANUP CONTRACT,
CONTRIBUTION PROTECTION, AND COMMENT PERIOD**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with Capsugel Manufacturing, Inc. (the Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the Capsugel facility located in Greenwood County at 535 Emerald Road North, Greenwood, South Carolina and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (the Site).

Response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing a remedial investigation and, if necessary, an evaluation of cleanup alternatives for addressing any

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contamination. Further, the Responsible Party shall reimburse the Department's future costs of overseeing the work performed by the Responsible Party and other Department response costs pursuant to the VCC.

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

- (1) On-line at <http://www.scdhec.gov/PublicNotices>; or
- (2) By contacting Elisa Vincent at 803-898-0882 or vincenef@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than September 28th, 2020, and addressed to: Elisa Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

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

**CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27**

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

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce.

Interested parties should submit written comments to Dr. James T. Miller, Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered, comments should be received no later than September 25, 2020, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Meat Inspection Act (21 USDA 661, Section 301) which establishes Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays and other similar requirements.

This regulation will not require legislative action.

**CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27**

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

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce.

Interested parties should submit written comments to Dr. James T. Miller, Director, State Meat-Poultry Inspection Department, P.O. Box 102406, Columbia, S.C. 29224-2406. To be considered, comments should be received no later than September 25, 2020, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays, and other similar requirements.

This regulation will not require legislative action.

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COMMISSION ON HIGHER EDUCATION CHAPTER 62

Statutory Authority: 1976 Code Sections 59-149-10 and 59-149-15

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the Legislative Incentives for Future Excellence (LIFE) Scholarship & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, September 28, 2020, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-1200.1 through 62-1200.75) that addresses the Legislative Incentives for Future Excellence (LIFE) Scholarship (Section 59-149-10 et seq.) & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement Section 59-149-15). The program regulation was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to provide clarification as to the eligibility, duration and continued eligibility, and awarding of the LIFE Scholarship and a LIFE Scholarship Enhancement, and procedures followed by institutions in disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students. Other changes will be proposed to promote consistency in administration among the state institutions by editing or rewriting sections to remove redundancy, ensure the regulation is consistent with the current statute, and make certain sections easier to interpret.

Legislative review of this proposal will be required

COMMISSION ON HIGHER EDUCATION CHAPTER 62

Statutory Authority: 1976 Code Section 59-150-360

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, September 28, 2020, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-900.150 through 62-900.200) that addresses the policies and procedures for administering the Lottery Tuition Assistance Program for two-year public and independent institutions (Section 59-150-360). Regulation for implementation of Lottery Tuition Assistance is the responsibility of the South Carolina State Board for Technical and Comprehensive Education for the technical college system, and the South Carolina Commission on Higher Education for the two-year public and private institutions. The regulations are to be developed in a coordinated effort, provide for the allocation of funds based on the tuition assistance granted at each institution, and be interchangeable between

each of the institutions affected. The program regulation promulgated by the Commission was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program and promote consistency with program policies and procedures set forth by the S.C. State Board for Technical and Comprehensive Education in order to improve the compatibility of the regulation for all eligible institutions. Other changes are anticipated to include rewriting sections to promote consistency in administration of the grant program among the state's two-year public and independent colleges and universities.

Legislative review of this proposal will be required.

**COMMISSION ON HIGHER EDUCATION
CHAPTER 62**

Statutory Authority: 1976 Code Sections 59-104-20 and 59-104-25

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, September 28, 2020, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend (R.62-300 through 62-375), the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program (Section 59-104-20 and 59-104-25) at the public and independent colleges and universities in the state. The program regulation was last amended in 2019.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to include editing or rewriting sections so as to clarify language, improve upon understanding of the regulation, and promote consistency in the administration of the scholarship program among the public and independent colleges and universities in the state.

Legislative review of this proposal will be required.

**COMMISSION ON HIGHER EDUCATION
CHAPTER 62**

Statutory Authority: 1976 Code Section 59-150-370

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the S.C. HOPE Scholarship Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, September 28, 2020, the close of the drafting comment period.

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Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-900.85 through 62-900.140) that addresses the policies and procedures for administering the S.C. HOPE Scholarship Program (Section 59-150-370) at the public and independent colleges and universities in the state. The regulation was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to promote consistency in administration among state institutions by editing or rewriting certain sections to make or to remove redundancy, ensure the regulation is consistent with the current statute, and make certain sections easier to interpret.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION CHAPTER 62 Statutory Authority: 1976 Code Section 59-142-20

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the South Carolina Need-based Grants Program. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, September 28, 2020, the close of the drafting comment period. The regulation was last amended in 2011.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend, the regulation (R.62-450 through 62-505) that addresses the South Carolina Need-based Grants Program (Section 59-112-10, et seq). Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to make changes to promote consistency in administration among the institutions. The amendments include rewriting sections to remove redundancy, ensuring the regulation is consistent with the current statute, and making certain sections easier to interpret.

Legislative review of this proposal will be 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 amend Chapter 10 of the South Carolina Code of Regulations to add a fee schedule for bulk licensure verification. 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 amend Chapter 10 of the South Carolina Code of Regulations to add a fee schedule for bulk licensure verification.

Legislative review of this amendment is required.

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

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-60-10(H)(3), and 40-60-360

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Chapter 10-36 to make certain changes pertaining to fees for the South Carolina Real Estate Appraisers Board. Interested persons may submit comments to Laura Smith, Administrator, Real Estate Appraisers Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to make changes to certain fees appearing in Chapter 10-36 pertaining to the South Carolina Real Estate Appraisers Board, included in which is the addition of a renewal fee for Appraisal Management Companies, a licensure category added during the 2017 legislative session. Additional fee changes will include any fees necessary to ensure compliance with S.C. Code Section 40-1-50.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
AUCTIONEERS' COMMISSION
CHAPTER 14**

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-6-50, and 40-6-60

Notice of Drafting:

The South Carolina Auctioneers' Commission proposes to amend: R.14-1 related to examinations; R.14-2 related to reporting of continuing education; R.14-3 to delete the change of address fee; R.14-4 and R.14-5 to combine and rename them, and to clarify requirements for displaying license and advertising; R.14-6 to rename the section and strike auctioneer from the section; R.14-11 to rename to add escrow accounts; R.14-12 to rename the section and delete fees; and R.14-13 and R.14-15 to combine, rename and clarify requirements for apprentice auctioneers and supervisors. Interested persons may submit written comments to Amy Holleman, Administrator, Auctioneers' Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Auctioneers' Commission proposes to amend: R.14-1 related to examinations; R.14-2 related to reporting of continuing education; R.14-3 to delete the change of address fee; R.14-4 and R.14-5 to combine, rename, and clarify requirements for displaying license and advertising; R.14-6 to rename the section and strike auctioneer from the section; R.14-11 to rename to add escrow accounts; R.14-12 to rename the section

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and delete fees; and R.14-13 and R.14-15 to combine, rename and clarify requirements for apprentice auctioneers and supervisors.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF REGISTRATION FOR FORESTERS CHAPTER 53

Statutory Authority: 1976 Code Sections 40-1-70 and 48-27-80

Notice of Drafting:

The South Carolina Board of Registration for Foresters proposes to repeal R.53-6. The Board further proposes to amend the following regulations: R.53-2 to delete references to spring and fall meetings, delete the position of secretary, and delete certain duties of the chairman and vice-chairman; R.53-3 regarding regular meetings and notice of meetings; R.53-7 to add that application fees may be paid electronically; R.53-8 to delete a date, add that applicants must pass the examination, add reference to the state examination, and further rewrite requirements; R.53-9 to re-write the section title; R.53-11 to correct a scrivener's errors, change the reference from person to applicant, and clarifying requirements for reciprocity; and R.53-20 to change the reference from annual to biennial continuing education requirements, adjust continuing education hours and credits; clarify requirements, correct scrivener's errors, add accommodations for disability, illness and extenuating circumstances, and add an age and/or experience waiver for continuing education. Interested persons may submit comments to Pam Dunkin, Administrator, Board of Registration for Foresters, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Board of Registration for Foresters proposes to repeal R.53-6. The Board further proposes to amend the following regulations: R.53-2 to delete references to spring and fall meetings, delete the position of secretary, and delete certain duties of the chairman and vice-chairman; R.53-3 regarding regular meetings and notice of meetings; R.53-7 to add that application fees may be paid electronically; R.53-8 to delete a date, add that applicants must pass the examination, add reference to the state examination, and further rewrite requirements; R.53-9 to re-write the section title; R.53-11 to correct a scrivener's errors, change the reference from person to applicant, and clarifying requirements for reciprocity; and R.53-20 to change the reference from annual to biennial continuing education requirements, adjust continuing education hours and credits; clarify requirements, correct scrivener's errors, add accommodations for disability, illness and extenuating circumstances, and add an age and/or experience waiver for continuing education. The aforementioned revisions were recommended following issuance of the Governor's Executive Order 2017-09 and were further reviewed and updated by the Board this year.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF FUNERAL SERVICE CHAPTER 57

Statutory Authority: 1976 Code Sections 40-1-70 and 40-19-60

Notice of Drafting:

The South Carolina Board of Funeral Service proposes to amend: R.57-06 to clarify apprentices' quarterly reporting requirements; R.57-08 regarding licensure by endorsement; R.57-09 regarding renewal applications;

R.57-10 establishing a residency requirement for funeral home managers and requiring owners of funeral establishments to be licensed funeral directors; R.57-11 regarding continuing education requirements; and other sections to comply with requirements set forth in Chapter 19 of Title 40. Interested persons may submit comments to Amy Holleman, Administrator, Board of Funeral Service, Post Office Box 11329, Columbia, S.C. 29211-1139.

Synopsis:

The South Carolina Board of Funeral Service proposes to amend: R.57-06 to clarify apprentices' quarterly reporting requirements; R.57-08 regarding licensure by endorsement; R.57-09 regarding renewal applications; R.57-10 establishing a residency requirement for funeral home managers and requiring owners of funeral establishments to be licensed funeral directors; R.57-11 regarding continuing education requirements; and other sections to comply with requirement set forth in Chapter 19 of Title 40.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71**

Statutory Authority: 1976 Code Section 41-15-220

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) proposes to amend sections of Chapter 71, Article 1, Subarticle 3, Occupational Injury and Illness Recording and Reporting Regulation.

Specifically, the Department proposes to amend Section 71-310 to clarify that employers must comply with the provisions of 71-305 when making a determination as to whether a worker's hearing loss is work-related. The Department also intends to add a period after the word designee in R.71-341(a)(3) and to add R.71-341(a)(4) regarding the electronic submission of the Employer Identification Number (EIN) used by the establishment which was inadvertently omitted from a prior update to this section.

The Department further intends to correct scrivener's errors and cross-references in the following sections: R.71-301(a)(1) relating to the requirements of 71-339; R.71-332(b)(2)(iii) relating to the reference for R.71-329(b)(4); R.71-335(b)(2)(iii) to change "for" to "of" relating to current or stored OSHA 300 logs; R.71-337 to correct a capitalization error and remove a hyphen in the word, "Cross Reference"; R.71-341(b)(1) to remove an "s" from the word "forms"; R.71-341(b)(5) to add an apostrophe and an "s" to the word "website"; R.71-341(c) to reformat and divide into two subparagraphs; R.71-341(c)(1) Table to correct formatting from five columns and five rows to four columns and four rows; and R.71-346(1)(iii) relating to the replacement of the SIC Code with the NAICS code. Interested persons may submit comments to Kristina Baker, Deputy Director, SC OSHA, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) operates an occupational safety and health plan approved by the United States Department of Labor. As a requirement of that approval, the Department is required to have recordkeeping regulations that produce records and statistical data that are identical to those promulgated by the United States Department of Labor. The proposed regulation will revise the Occupational Injury and Illness Recording and Reporting Regulation (Chapter 71, Article 1, Subarticle 3) to comport with current Federal OSHA regulations.

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Legislative review of this amendment is required.

DEPARTMENT OF MOTOR VEHICLES
CHAPTER 90
Statutory Authority: 1976 Code Section 56-23-100

Notice of Drafting:

The South Carolina Department of Motor Vehicles (SCDMV) proposes to amend Regulation 90, Articles 2 and 3 regarding truck driver training schools and regular driver's license training schools. The SCDMV intends to review the regulations in their entirety to determine what can be transitioned to agency policy versus what must be maintained in regulation.

Interested parties should submit their comments in writing to Lauren Phillips, Deputy Director of Legislative Affairs, P.O. Box 1498, Blythewood, South Carolina, 29016 by no later than 5:00 p.m. on Monday, September 28, 2020, the end of the drafting comment period.

Synopsis:

The SCDMV proposes to amend Regulation 90, Articles 2 and 3 regarding regular driver's license and truck driver training schools.

Legislative review of these amendments are required.

Document No. 4983

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 13

Statutory Authority: 1976 Code Sections 33-55-10 et seq.

102-1. Fees to Accompany Request for Confirmation of Solicitation Exemption.

Preamble:

The Office of the Attorney General proposes to repeal Regulation 102-1, relating to Fees to Accompany Request for Confirmation of Solicitation Exemption. This is part of the Attorney General - Division of Public Charities Chapter, and this Division is no longer part of the Attorney General's Office. The Notice of Drafting regarding this regulation was published on June 26, 2020, in the *State Register*.

Section-by-Section Discussion

102-1. Fees to Accompany Request for Confirmation of Solicitation Exemption. This section is amended to repeal this regulation.

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, such a hearing will be held at the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, S.C., on October 14, 2020, at 2:00 p.m. If no qualifying request is received by September 28, 2020, the hearing will be cancelled. Written comments may be directed to Mary Frances Jowers, Assistant Deputy Attorney General, Office of the S.C. Attorney General, P.O. Box 11549, Columbia, SC 29211-1549, not later than 5:00 p.m. on September 28, 2020.

Preliminary Fiscal Impact Statement:

The Office of the Attorney General anticipates that there will be no costs incurred by the State or its political subdivisions in complying with the proposed repeal of this regulation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Fees to Accompany Request for Confirmation of Solicitation Exemption.

Purpose: The Office of the Attorney General proposes to repeal Regulation 102-1, relating to Fees to Accompany Request for Confirmation of Solicitation Exemption. The purpose of the repeal is to delete this regulation because it is part of the Attorney General - Division of Public Charities Chapter, and this Division is no longer part of the Attorney General's Office.

Legal Authority: 1976 Code Sections 33-55-10 et seq.

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

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

The regulation is outdated. Therefore, it is in the best interest of the Office of the Attorney General and the State of South Carolina that the regulation be repealed.

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DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated costs incurred by the State or any political subdivision. Repeal of the regulation will be a benefit because the regulation is outdated.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning this regulation.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation will have no known effect on the environment or public health of this State.

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

There are no known detrimental effects on the environment and public health if the regulation is not implemented in this State.

Statement of Rationale:

The regulation is being amended to repeal this regulations related to records of charitable trusts. The repeal is to delete this regulation because it is part of the Attorney General - Division of Public Charities Chapter, and this Division is no longer part of the Attorney General's Office.

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. 4982
OFFICE OF THE ATTORNEY GENERAL
CHAPTER 13
Statutory Authority: 1976 Code Section 62-7-405(e)

- 13-1. Inspection of Records of Charitable Trusts and Public Foundations.
- 13-2. Limitations on Inspections.
- 13-3. Notes, Photo-copies, etc.
- 13-4. Records Concerning Charitable Purposes Only May Be Inspected.

Preamble:

The Office of the Attorney General proposes to repeal certain outdated regulations related to records of charitable trusts. The General Assembly passed Act No. 330 of 2006, effective June 2, 2006, which provided that charitable trusts are not required to be filed with the Attorney General unless required by statute, rule, or regulation. There is currently no statute, rule, or regulation requiring charitable trusts to be filed with the Attorney General's Office. The Notice of Drafting regarding this regulation was published on June 26, 2020, in the *State Register*.

Section-by-Section Discussion

13-1. Inspection of Records of Charitable Trusts and Public Foundations. This section is amended to repeal this regulation.

13-2. Limitations on Inspections. This section is amended to repeal this regulation.

13-3. Notes, Photo-copies, etc. This section is amended to repeal this regulation.

13-4. Records Concerning Charitable Purposes Only May Be Inspected. This section is amended to repeal this regulation.

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, such a hearing will be held at the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, S.C., on October 14, 2020, at 10:00 a.m. If no qualifying request is received by September 28, 2020, the hearing will be cancelled. Written comments may be directed to Mary Frances Jowers, Assistant Deputy Attorney General, Office of the S.C. Attorney General, P.O. Box 11549, Columbia, SC 29211-1549, not later than 5:00 p.m. on September 28, 2020.

Preliminary Fiscal Impact Statement:

The Office of the Attorney General anticipates that there will be no costs incurred by the State or its political subdivisions in complying with the proposed repeal of regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Records of Charitable Trusts.

Purpose: To repeal certain outdated regulations related to records of charitable trusts. The General Assembly passed Act No. 330 of 2006, effective June 2, 2006, which provided that charitable trusts are not required to be filed with the Attorney General unless required by statute, rule, or regulation. There is currently no statute, rule, or regulation requiring charitable trusts to be filed with the Attorney General's Office.

Legal Authority: 1976 Code Section 62-7-405(e).

Plan for Implementation: The proposed 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 REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations are outdated. Therefore, it is in the best interest of the Office of the Attorney General and the State of South Carolina that the regulations be repealed.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated costs incurred by the State or any political subdivision. Repeal of the regulations will be a benefit because the regulations are outdated.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations will have no known effect on the environment or public health of this State.

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

There are no known detrimental effects on the environment and public health if the regulations are not implemented in this State.

Statement of Rationale:

The regulations are being amended to repeal regulations related to records of charitable trusts. The General Assembly passed Act No. 330 of 2006, effective June 2, 2006, which provided that charitable trusts are not required to be filed with the Attorney General unless required by statute, rule, or regulation. There is currently no statute, rule, or regulation requiring charitable trusts to be filed with the Attorney General's Office.

Text:

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

Document No. 4981
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

Preamble:

The State Board of Education proposes to amend R.43-279, Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts to identify “sexting” as a Level II disciplinary infraction and distinguish it from the “illegal use of technology” that is currently addressed in the regulation.

Notice of Drafting for the proposed amendment was published in the *State Register* on May 22, 2020.

Section-by-Section Discussion

Section IV(B)(2)(o)	Deletes “Other acts as determined and communicated by local school authorities.”; adds “Creating, possessing, or sharing nude, partially nude, or other sexually explicit or suggestive images, videos, or visual representations using non-digital means (e.g., printed materials) or electronic communication, including but not limited to texting, emailing, or posting on social media platforms. These acts are prohibited whether or not the subjects of the images, videos, or visual representations consent to their being created, possessed, or shared.”
Section IV(B)(2)(p)	Adds “p. Other acts as determined and communicated by local school authorities.”
Section IV(C)(2)(k)	Adds a “.” after activities; deletes “and maliciously transmitting sexual images of other than images of the student or images transmitted with the uncoerced consent of the individual in the images.”
Section IV(C)(2)(l)	Adds “l. Maliciously transmitting sexual images of minors other than self-images of the student or images transmitted with the uncoerced consent of the

- individual in the images).”
- Section IV(D)(1) Deletes the number “1.”; and adds “or criminal activity.”; deletes “excluding criminal conduct.”
- Section IV(D)(2) Deletes the entire section “2. A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.”

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 13, 2020, 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 [2020-21 Regulations Under Review By The State Board of Education](#).

Written comments should be submitted to Dr. Sabrina Moore, Director, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Suite 805, Columbia, SC 29201 or by e-mail to smoore@ed.sc.gov on or before 5:00 pm on September 28, 2020.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-279.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

Purpose: This regulation is being amended to identify “sexting” as a Level II disciplinary infraction and distinguish it from the “illegal use of technology” that is currently addressed in the regulation.

Legal Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

Plan for Implementation: The proposed amended regulation would be incorporated upon publication in the State Register as a final regulation.

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

This regulation is being amended to identify “sexting” as a Level II disciplinary infraction and distinguish it from the “illegal use of technology” that is currently addressed in the regulation.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the school districts. The proposed amendments will benefit students, schools, districts, and the state.

UNCERTAINTIES OF ESTIMATES:

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

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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.

Statement of Rationale:

This regulation is being amended to identify “sexting” as a Level II disciplinary infraction and distinguish it from the “illegal use of technology” that is currently addressed in the regulation.

Text:

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

Document No. 4980
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-19-90(10), 59-63-30, 59-63-420, 59-63-470, 59-63-480, 59-63-490, 59-63-500, 59-63-510, 59-63-520, 59-63-530, 59-65-30, and 59-65-90

43-273. Transfers and Withdrawals.

Preamble:

The State Board of Education proposes to amend R.43-273, Transfers and Withdrawals to clarify how district representatives should treat the evidence of work provided by students who desire to transfer from a home school association to a public school in South Carolina.

Section-by-Section Discussion

Section II(C)	Changes “honors weighting” to “credit”. Changes “course(s) at honors weight” to “credit”. Adds “If the evaluated evidence is insufficient, districts shall follow the option(s) defined in their district policy which comply with options listed in the SC Uniform Grading Policy.” Changes “may” to “must also”. Changes “honors” to “said”. Adds an “s” to “home school,” “private school,” and “out-of-state nonpublic school”. Changes “for consistency” to “that is consistent with state regulation.”
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Notice of Drafting for the proposed amendment was published in the *State Register* on May 22, 2020.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 13, 2020, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments 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 [2020–21 Regulations Under Review By The State Board of Education](#).

Written comments should be submitted to Sherrie Beaver, Education Associate, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Suite 802, Columbia, SC 29201 or by e-mail to sabeaver@ed.sc.gov on or before 5:00 pm on September 28, 2020.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-273.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Transfers and Withdrawals

Purpose: Changes are being proposed to R.43-273 to clarify how district representatives should treat the evidence of work provided by students who desire to transfer from a home school association to a public school in South Carolina.

Legal Authority: 1976 Code Sections 59-19-90(10), 59-63-30, 59-63-420, 59-63-470, 59-63-480, 59-63-490, 59-63-500, 59-63-510, 59-63-520, 59-63-530, 59-65-30, and 59-65-90.

Plan for Implementation: The proposed amendments will be incorporated within R.43-273 upon publication in the State Register as a final regulation.

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

The changes clarify the transfer and withdrawal section as stated in the *SC Uniform Grading Policy*, to reflect how district representatives should treat the evidence of work provided by students who desire to transfer from a home school association to a public school in South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the school districts. The proposed amendments will benefit students, schools, districts, and the state.

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:

This change is being proposed to clarify how district representatives should treat the evidence of work provided by students who desire to transfer from a home school association to a public school in South Carolina. The proposed changes were requested by Senator Richard Cash on behalf of representatives from several home school associations in the state. Input was sought from and provided by home school representatives and school counseling personnel representing a number of districts of various sizes and located in various geographic regions.

Text:

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

Document No. 4978

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 South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., 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, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61-62.68, Chemical Accident Prevention Provisions, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposes amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposes amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

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

South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

The Department had a Notice of Drafting published in the February 28, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

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

Amended the titles of Subparts QQQQ and TTTT to strike the capitalized "For" and replace with lowercase "for", and amended the title of Subpart QQQQ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.60, Subpart B, "Adoption and Submittal of State Plans for Designated Facilities":
Subpart B is deleted in its entirety for clarity and compliance with federal law.

Regulation 61-62.60, Subpart Cf, "Emission Guidelines for Municipal Solid Waste Landfills":
The table is amended to incorporate federal revisions at 84 FR 44547, August 26, 2019, by reference.

Regulation 61-62.60, Subpart CCCC "Standards of Performance for Commercial and Industrial Solid Waste Incineration Units":
The table is amended to incorporate federal revisions at 84 FR 15846, April 16, 2019, by reference.

Regulation 61-62.60 Subpart UUUUa "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units":
Subpart UUUUa is added to comply with newly promulgated federal regulations at 84 FR 32520, July 8, 2019.

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

Amended titles of Subparts JJJJ, KKKKK, and CCCCCC to strike the capitalized "For" and replace with lowercase "for", and amended the title for Subpart JJJJ to strike the capitalized "And" and replace with lowercase "and" for internal consistency.

Regulation 61-62.63, Subpart A, "General Provisions":
The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019; 84 FR 7682, March 4, 2019; and 84 FR 9590, March 15, 2019, by reference.

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Regulation 61-62.63, Subpart HHHH, “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”:

The table is amended to incorporate federal revisions at 84 FR 6676, February 28, 2019, by reference.

Regulation 61-62.63, Subpart NNNN, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart OOOO, “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart QQQQ, “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”:

The table is amended to incorporate federal revisions at 84 FR 7682, March 4, 2019, by reference.

Regulation 61-62.63, Subpart RRRR, “National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”:

The table is amended to incorporate federal revisions at 84 FR 9590, March 15, 2019, by reference.

Regulation 61-62.63, Subpart TTTT, “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”:

The table is amended to incorporate federal revisions at 84 FR 3308, February 12, 2019, by reference.

Regulation 61-62.63, Subpart KKKKK, “National Emission Standards for Hazardous Air Pollutants for Clay Ceramics”:

The table is amended to incorporate federal revisions at 84 FR 58601, November 1, 2019, by reference.

Regulation 61-62.63, Subpart QQQQQ, “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”:

The table is amended to incorporate federal revisions at 84 FR 2742, February 8, 2019, by reference.

Regulation 61-62.68, Chemical Accident Prevention Provisions

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

Amended throughout to strike the abbreviations “Sec.” and “Secs.”, and replace them with the word “Sections” to ensure internal consistency.

Amended throughout to change capitalization of “section” to “Section”, “subpart” to “Subpart”, and “parts” to “Parts” for improved organization and clarity and to ensure internal consistency.

Amended tab formatting to ensure codification is consistent with the 2014 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.68, Section 68.1, Scope:

Section 68.1 is amended to strike the phrase “This part” and add the phrase “Regulation 61-62.68”, and to add the phrase “Clean Air” to the word “Act” for internal consistency and clarification.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68” for internal consistency, to revise codification and citations in alpha-numeric order, and to format the defined terms in bold font and strike quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.68, Section 68.3, Definitions:

Section 68.3 is amended to insert 68.3(c), (j), and (t) in alpha-numeric order to add definitions for “Administrator”, “CBI”, and “LEPC”, to ensure consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(a) is amended to strike the word “Release” and replace with lowercase word “release” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(mm) is recodified (o) to strike the definition for “USDOT” and replace with “DOT” in alpha-numeric order for consistency with the federal regulation.

Regulation 61-62.68, Section 68.3, Definitions:

Former paragraph 68.3(o) is recodified (q), and former paragraph 68.3(u) is recodified (z) and repositioned in alpha-numeric order to reflect codification changes.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(gg) is amended to add a hyphen between “on” and “site” to correct a typographical error.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(kk) is amended to add the word “Section” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(nn) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(oo) is amended to strike the sentence “The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part.” and reposition this sentence following the first sentence, for consistency with the federal regulation. The repositioned sentence is amended to replace the phrase “of this part” with the phrase “of Regulation 61-62.68” for clarity and consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Paragraph 68.3(pp) is amended to add the word “Section”, and to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.3, Definitions:

Definition for “Retail facility” is codified (mm) and repositioned in alpha-numeric order to reflect codification and formatting changes.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a) is amended to strike the word “An” and add “Except as provided in paragraphs (b) though (f) of this section, an” for consistency with the federal regulation, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(2) is amended to strike the word “or” after the semicolon for correct codification.

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Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(3) is amended to strike the period and add a semicolon and the word “or” after the semicolon for correct codification.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(a)(4) is added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through (f) are recodified 68.10(g) through (k) for consistency with the federal regulation, and the internal citations in paragraphs 68.10(h) and (i) are amended to reflect repositioning of the paragraphs for consistency.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraphs 68.10(b) through 68.10(f), and subparagraphs 68.10(f)(1) through 68.10(f)(4), are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(g)(2) is amended to strike the zero in the citation “Section 68.30” to correct a typographical error.

Regulation 61-62.68, Section 68.10, Applicability:

Paragraph 68.10(k) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(a) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b) is amended to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(2) is amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(b)(4) is amended to strike the words “Section” and “Sec.” and replace both with the phrase “40 CFR” for clarity and consistency, and to recodify the internal reference for consistency.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c) is amended to recodify the internal reference for consistency, and to add subparagraph (c)(4) to comply with the federal regulation. Former subparagraphs 68.12(c)(4) and (c)(5) are recodified 68.12(c)(5) and (c)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(c)(5) (former paragraph 68.12(c)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, and amended the internal citation to strike the number “95” and replace with the number “96” to correct a typographical error.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d) is amended to recodify the internal reference for consistency, and to add subparagraph (d)(4) to comply with the federal regulation. Former subparagraphs (d)(4) and (d)(5) are recodified (d)(5) and (d)(6) for consistency and clarity.

Regulation 61-62.68, Section 68.12, General requirements:

Paragraph 68.12(d)(5) (former paragraph 68.12(d)(4)) is amended to add a comma and the phrase “and conduct exercises,” for consistency with the federal regulation, amended the internal citation to correct a typographical error, and to strike the phrase “of this part” for consistency and clarity.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(a)(1) is amended to strike the word “Material” before the phrase “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.48, Safety information:

Paragraph 68.48(b) is amended to remove capitalization for consistency.

Regulation 61-62.68, Section 68.56, Maintenance:

Paragraph 68.56(d) is amended to strike the symbol “≡” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.58, Compliance audits:

Paragraph 68.58(a) is amended to strike the phrase “the rule” and add the phrase “this Subpart” for consistency with the federal regulation and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Section 68.60 is amended to insert paragraph 68.60(c) in alpha-numeric order for consistency with the federal regulation. Former paragraphs 68.60(c) through 68.60(f) are recodified 68.60(d) through 68.60(g) for consistency and clarity.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(a) is amended to strike the phrase “of a regulated substance” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(d) (former paragraph 68.60(c)) is amended to strike the word “summary” and replace with the word “report” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.60, Incident investigation:

Paragraph 68.60(g) (former paragraph 68.60(f)) is amended to add the word “incident,” and strike the word “summaries” and replace it with the word “reports” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(a) is amended to strike the phrase “In accordance with the schedule set forth in Section 68.67, the” and replace with “The” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.65, Process safety information:

Paragraph 68.65(b) is amended to strike the word “Material” before “Safety Data Sheets” and add “(SDS)” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

Paragraph 68.67(c)(2) is amended to strike the period and replace with a semicolon for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

Paragraph 68.67(d) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.67, Process hazard analysis:

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Paragraph 68.67(f) is amended for consistency with the federal regulation.

Regulation 61-62.68, Section 68.73, Mechanical integrity:

Paragraph 68.73(d)(3) is amended to strike the symbol “=” and replace it with an apostrophe to correct a typographical error.

Regulation 61-62.68, Section 68.79, Compliance audits:

Paragraph 68.79(a) is amended to strike the word “the” before the phrase “procedures and practices,” and amended to strike the phrase “the rule” and replace with the phrase “this Subpart” to comply with the federal regulation.

Regulation 61-62.68, Section 68.81, Incident investigation:

Paragraph 68.81(a) is amended to strike the phrase “of a regulated substance” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(a) is amended to add the phrase “Responding stationary source,” and amended to add citations to read “Sections 68.93, 68.95, and 68.96” to comply with the federal regulation.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(b) is amended to add the phrase “Non-responding stationary source”, to add the word “a”, and to strike the phrase “they meet the following” for compliance with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraph 68.90(b)(2) is amended to strike the word “and” after the semicolon for internal consistency.

Regulation 61-62.68, Section 68.90, Applicability:

Paragraphs 68.90(b)(4) and 68.90(b)(5) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.91-94 [Reserved]:

Section 68.91-94 is amended to strike “94” and replace with “92,” and to insert the new section title in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.93, Emergency response coordination activities:

Section 68.93 is added in alpha-numeric order to adopt federal language on emergency response coordination activities for compliance with the federal regulation.

Regulation 61-62.68, Section 68.94 [Reserved]:

Section 68.94 and the phrase “[Reserved]” are inserted in bold font in alpha-numeric order for clarity.

Regulation 61-62.68, Section 68.95, Emergency response program:

Paragraph 68.95(a)(1)(i) is amended to add “the appropriate federal, state, and” to comply with the federal regulation.

Regulation 61-62.68, Section 68.95, Emergency response program:

Paragraph 68.95(a)(4) is amended to add a second sentence to comply with the federal regulation.

Regulation 61-62.68, Section 68.96 Emergency response exercises:

Section 68.96 is added in alpha-numeric order to adopt federal language on emergency response exercises for compliance with the federal regulation.

Regulation 61-62.68, Section 68.96-99 [Reserved]:

Section 68.96-99 is amended to strike “96” and replace with “97” for clarity.

Regulation 61-62.68, Section 68.115, Threshold determination:

Paragraph 68.115(b)(2)(i) is amended to clarify an internal reference, and to add and update the contact information for the National Fire Protection Association to comply with the federal regulation.

Regulation 61-62.68, Section 68.125, Exemptions:

Section 68.125, Exemptions, is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.126, Exclusions:

Section 68.126 is amended to change the capitalization of the first sentence for consistency with federal regulations, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.150, Submission:

Paragraph 68.150(a) is amended to strike the word “a” between “shall be submitted in” and “method and format” and replaced with the word “the”, and to strike the word “as” between “the central point” and “specified by” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(a) is amended to strike the abbreviation “CRF” and replace with “CFR” to correct a typographical error, and to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(b)(1) is amended to add “and (b)(21)” to comply with the federal regulation.

Regulation 61-62.68, Section 68.151, Assertion of claims of confidential business information:

Paragraph 68.151(c)(2) is amended to strike the abbreviation “~~CBI~~” and replace with “CBI” to correct a typographical error.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(13) is amended to remove capitalization for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(19) is amended to strike the word “and” after the semicolon for consistency and clarity.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(20)(iv) is amended to strike the phrase “this part 68” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.160, Registration:

Paragraph 68.160(b)(21) is added in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.165, Offsite consequence analysis:

Paragraph 68.165(b)(5) is amended to strike the word “vaporization” and replace with the word “evaporation” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.168, Five-year accident history:

Section 68.168 is amended to strike the phrase “required by” and add the phrase “provided in” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.170, Prevention program/Program 2:

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Paragraph 68.170(j) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(e) is amended to add a space between the word “Analysis” and the abbreviation “(PHA)” for clarity.

Regulation 61-62.68, Section 68.175, Prevention program/Program 3:

Paragraph 68.175(l) is amended to add the word “completion” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Section 68.180’s title is amended to add the phrase “and exercises” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a) is amended to strike the phrase “the following information” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(1) is amended to add contact information requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(2) is amended to add coordination date requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(a)(3) is amended to add emergency plan requirements for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraphs 68.180(a)(4) through 68.180(a)(6) are stricken for consistency with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b) is amended for compliance with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(1) and subparagraphs 68.180(b)(1)(i) through 68.180(b)(1)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(b)(2) and subparagraphs 68.180(b)(2)(i) through 68.180(b)(2)(iv) are added to comply with the federal regulation.

Regulation 61-62.68, Section 68.180, Emergency response program:

Paragraph 68.180(c) is stricken in entirety for consistency with the federal regulation.

Regulation 61-62.68, Section 68.190, Updates:

Paragraph 68.190(a) is amended to strike the word “a” and replace with the word “the” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.195, Required corrections:

Paragraph 68.195(a) is amended to add the word “the” between “six months of” and “release or by” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.200, Recordkeeping:

Section 68.200 is amended to strike the phrase “this part” and add the phrase “Regulation 61-62.68 at the stationary source”, and to add a comma after the word “years” for consistency with the federal regulation, and amended to strike the phrase “of this part” following the phrase “Subpart D” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(a) is amended to add the phrase “RMP availability”, and to add the citation “and 40 CFR Part 1400” for consistency with the federal regulation, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is recodified 68.210(c) and amended to comply with the federal regulation.

Regulation 61-62.68, Section 68.210, Availability of information to the public:

Paragraph 68.210(b) is inserted in alpha-numeric order to comply with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a) is amended to add the word “Regulation” to the three citations for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(1) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(i) is amended to pluralize the word “Section” and add the citations “through (f) and 68.96(a) and (b)(2)(i),” after “Sections 68.10(a)” for consistency with the federal regulation, and amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(a)(2)(ii) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(c) is amended to add the word “Regulation” for internal consistency and clarity.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(d) is recodified 68.215(e) for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements.

Paragraph 68.215(d) is added to denote delegation authority for consistency with the federal regulation.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraphs 68.215(e)(1) and 68.215(e)(3) are amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.215, Permit content and Department requirements:

Paragraph 68.215(e)(4) is amended to recodify the internal reference for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220 Audits:

Section 68.220 is amended throughout to strike the phrase “or the agency designated by delegation or agreement” for consistency with the federal regulation.

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Regulation 61-62.68, Section 68.220 Audits:

Section 68.220 is amended to strike paragraph 68.220(a) in entirety, and former paragraphs 68.220(b) through (k) are recodified 68.220(a) through (j) for consistency with the federal regulation. Internal citations throughout section are recodified for reorganization of regulatory text.

Regulation 61-62.68, Section 68.220 Audits:

Paragraph 68.220(a) (former paragraph 68.220(b)) is amended to strike the phrase “or the agency designated by delegation or agreement under paragraph (a) of this section,” and amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(d) (former paragraph 68.220(e)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(e) (former paragraph 68.220(f)) is amended to remove a space between “AICHe/” and “CCPS” for consistency and clarity, and amended to strike the phrase “of this part” for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(f)(2) (former paragraph 68.220(g)(2)) is amended to add “to the Department the” before “written response”, and amended to strike the phrase “in accordance with” and replace with the word “under”, and amended to strike the word “issuance” and replace with the phrase “the issue”, and amended to strike the phrase “to the Department, or the agency designated by delegation or agreement” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(h) (former paragraph 68.220(i)) is amended to strike the phrase “of this part” in two instances for internal consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph 68.220(j) (former paragraph 68.220(k)) is amended to strike the phrase “this part” and replace with “Regulation 61-62.68” for internal consistency, and to remove capitalization for consistency.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to R. Scott Bigleman of the Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; biglemrs@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, 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 10, 2020, 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>.

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

Statement of Need and Reasonableness:

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

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

Purpose: The EPA promulgated amendments to national air quality regulations in 2019. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2019, through December 31, 2019. Additionally, the Department proposes amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The Department also proposes amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68 to ensure compliance with those regulations. The Department proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

Legal Authority: 1976 Code Sections 48-1-10 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. 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 EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2019 included revised NSPS rules and NESHAPs for Source Categories. South Carolina is mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The proposed amendments also include amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The proposed revisions also include amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68, to ensure compliance with those regulations. The Department also proposes to make corrections for internal consistency, clarification, and codification, to improve the overall text as necessary 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 NSPS, NESHAP, and Chemical Accident Prevention standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. The Department proposes the addition of Subpart UUUUa to R.61-62.60 to facilitate required implementation of the ACE rule. Costs to the regulated community resulting from this amendment attributable to and required by the federal ACE rule.

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The proposed amendments incorporate revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the proposed amendments to R.61-62 will provide continued protection of the environment and public health.

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

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

Text:

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

Document No. 4975

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

Preamble:

The Department of Health and Environmental Control ("Department") proposes amending R.61-79 to adopt two Environmental Protection Agency ("EPA") rules published in the Federal Register. The EPA has given authorized states, including South Carolina, the discretion to adopt these rules as they will make existing standards less stringent and provide more flexibility to the regulated community. The "Safe Management of Recalled Airbags" interim final rule, published on November 30, 2018, at 83 FR 61552-61563 will create a conditional exemption from Resource Conservation and Recovery Act ("RCRA") requirements for certain entities that collect airbag waste from automobiles. The "Universal Waste Regulations: Addition of Aerosol Cans" final rule published on December 9, 2019, at 84 FR 67202-67220 will reduce regulatory burdens on businesses that generate, manage, and dispose of aerosol cans. The Department also proposes corrections for clarity and 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 rules.

The Department had a Notice of Drafting published in the April 24, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

260.10. Add the following definitions: “Aerosol can,” “Airbag waste,” “Airbag waste handler,” and “Airbag waste collection facility.”

260.10. Revise the definition of “Universal waste” to include aerosol can as described in section 273.6.

260.10(2)(i). Insert language into section (i) to ensure that those who treat, dispose or recycle universal waste under the provisions of parts 273.13(e) and 273.33(e) are considered Universal Waste Handlers.

261. Table of Contents: Insert Subparts I through CC.

261.4(h) and (i). Add and reserve.

261.4(j)(1). Add language that allows airbag waste that is at an airbag waste handler or is being transported to a collection facility to not be subject to parts 262-268, 270, or 124 provided that certain requirements are met.

261.4(j)(2). Add language that states that airbag waste that is exempt from regulation per the conditions in 261.4(j)(1) are subject to all applicable regulations arrives at an airbag collection facility or designated facility and that the receiving facility is now considered the hazardous waste generator and must comply with all requirements.

261.4(j)(3). Add language that prohibits reuse in vehicles of defective airbag modules subject to a recall under the National Highway Traffic Safety Administration and that the Department considers the practice to be sham recycling.

261.6(d). Add an “s” to “part” for grammatical clarity.

261.9. Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

261.31(b)(4)(ii). Delete language referring to state regulatory authority.

262.13(f)(1)(iii). Add language that states a very small quantity generator’s mixed waste is subject to R.61-107.279.

262.14(a)(5)(ix) through (xi). Add and reserve (ix) and (x); add language at (xi) that states where small quantity generators of hazardous wastes must send airbag waste.

262.21(a)(1). Change “Office of Solid Waste” to “Office of Resource Conservation and Recovery.”

262.21(b). Change “Office of Solid Waste” to “Office of Resource Conservation and Recovery.”

264.1(g)(11). Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

264.119(b)(1)(ii). Remove the reference to R.61-79.265.

264.151(a)(2). Insert a reference to 265.145(a).

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265.1(c)(14). Insert language that clarifies aerosol cans are regulated under part 273, and therefore not under parts 262 through 270.

265.195(a). Remove sections (1) through (4), and in the Note remove “and Regional Administrator.”

268.1(f). Insert language that clarifies universal waste handlers and universal waste transporters that handle aerosol cans are regulated under part 273, and therefore not part 268.7 and 268.50.

270.1(c)(2)(viii). Insert language that adds universal waste handlers and universal waste transporters that manage aerosol cans to those that do not need a RCRA permit.

270.19(e). Revise the reference to 63.1210(b) to 63.1210(d).

273.1(a). Insert language that includes aerosol cans for the list of substances regulated in part 273.

273.3(b)(2). Amend to state that aerosol cans containing pesticides may be managed as aerosol can universal waste even if they do not meet the conditions set forth in paragraph (a) of 273.3.

273.6. Add language that establishes criteria for which aerosol cans are applicable under this part and when a used or unused aerosol can be considered waste.

273.9. Add the following definition: “Aerosol can.”

273.9. Revise the definition of “Large Quantity Handler of Universal Waste” to include aerosol cans.

273.9. Revise the numbering in the definition of “Pesticide” so that instead of (a), (b), and (c), it reads (1), (2), and (3).

273.9. Revise the definition of “Small Quantity Handler of Universal Waste” to include aerosol cans.

273.9. Add language that adds aerosol cans to the definition of “Universal Waste.”

273.9. Add language under the definition of “Universal Waste Handler” that defines a person who treats, disposes of, or recycles under the provisions of 273.13(e) or 273.33(e) is a universal waste handler.

273.13(c)(2)(iii) and (iv). Revise language to update applicability requirements.

273.13(e). Add new language that establishes standards for small quantity handlers of universal waste that must be met if they are handling universal aerosol can waste.

273.14(f). Add new language that establishes label requirements for universal waste aerosol cans and containers where aerosol cans are contained.

273.32(b)(4). Revise the language so that aerosol cans are included in the list of examples of universal waste.

273.33(c)(2)(iii) and (iv). Revise language to update applicability requirements.

277.33(e). Add new language that establishes standards for large quantity handlers of universal waste that must be met if they are handling universal aerosol can waste.

273.34(f). Add new language that establishes label requirements for universal waste aerosol cans and containers where aerosol cans are contained.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, 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 November 12, 2020, 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>.

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

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to realize the benefits of and maintain state consistency with the following EPA regulations published in the Federal Register: “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220, and “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563.

Legal Authority: 1976 Code Sections 44-56-10 et seq.

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

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

The Department proposes amending R.61-79, Hazardous Waste Management Regulations, to adopt EPA interim final rule “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the RCRA hazardous waste requirements for entities, including

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but not limited to, automobile dealerships, automotive salvage and scrapyards, independent repair facilities, and collision centers that collect airbag modules and inflators (“airbag waste”) from automobiles as long as certain conditions are met. This rule enables expedited removal of defective airbag inflators.

The Department further proposes amending R.61-79 to adopt the EPA final rule “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal RCRA regulations. Adopting the rule will reduce regulatory burdens on retail stores and other establishments that generate, manage, and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from this proposed revision. The EPA estimates that the “Safe Management of Recalled Airbags” interim final rule will result in industry savings between \$1.7 million and \$13 million (Federal Register, Vol 83, No. 231, page 61561). Similarly, the EPA estimates annual industry cost savings for the “Universal Waste Regulations: Addition of Aerosol Cans” final rule to be between \$5.3 million and \$47.8 million (Federal Register Vol. 84, No. 236, page 67203).

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

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

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

If the regulation is not implemented, there will be detrimental effects on the environment and public health because South Carolina would not be implementing or realizing the benefits of the EPA’s “Universal Waste Regulations: Addition of Aerosol Cans” final rule and the “Safe Management of Recalled Airbags” interim final rule described above.

Statement of Rationale:

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

The Department proposes amending R.61-79 to adopt two EPA rules published in the Federal Register. The EPA has given authorized states, including South Carolina, the discretion to adopt these rules as they will make existing standards less stringent and provide more flexibility to the regulated community. The “Safe Management of Recalled Airbags” interim final rule, published on November 30, 2018, at 83 FR 61552-61563 will create a conditional exemption from RCRA requirements for certain entities that collect airbag waste from automobiles. The “Universal Waste Regulations: Addition of Aerosol Cans” final rule published on December 9, 2019, at 84 FR 67202-67220 will reduce regulatory burdens on businesses that generate, manage, and dispose of aerosol cans.

Text:

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

Document No. 4976

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations.

Preamble:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79, Hazardous Waste Management Regulations, to adopt the Environmental Protection Agency (“EPA”) final rule “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine,” published on February 22, 2019, at 84 FR 5816-5950. The rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter Food and Drug Administration (“FDA”)-approved nicotine replacement therapies.

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

The Department had a Notice of Drafting published in the April 24, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

261.4(a)(1)(ii). Amend to clarify that discharging pharmaceuticals into a sewer system does not qualify for being excluded as a solid waste.

261.7(c). Add language to reference Part 266.507 for determining when containers of hazardous waste pharmaceuticals are considered empty with exceptions provided for in 266.507(c) and (d).

261.33(c). Amend to include a reference to 266.507 in defining when a container is “empty,” and amend the comment to modify “reuse” to “re-use.”

261.33(e). Table. Add language that states patches, gums, and lozenges that are FDA-approved are not included under the listing of “Nicotine & Salts” and “Pyridine.”

262.10(m). Add language that stipulates reverse distributors are subject to Part 266, subpart P.

262.10(n). Add language that clarifies which healthcare facilities are subject to Part 266, subpart P or 262.14 based on the quantity of hazardous waste it generates per calendar month.

262.13(c)(9). Add language that excludes hazardous waste pharmaceuticals managed in accordance with Part 266, subpart P and Drug Enforcement Administration controlled substances from being counted in monthly quantity-based determinations.

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262.14(a)(5)(ix). Add language that allows small quantity generators of hazardous waste to treat or dispose of potentially creditable hazardous waste pharmaceuticals generated by healthcare facilities in off-site reverse distributors.

262.14(a)(5)(x). Add language that allows small quantity generators of hazardous waste to treat or dispose of non-creditable and potentially creditable hazardous waste pharmaceuticals in healthcare facilities that meet the conditions in sections 266.502(l) and 266.503(b).

264.1(g)(12). Add and reserve.

264.1(g)(13). Add language that clarifies that reverse distributors that accumulate potentially creditable and evaluated hazardous waste pharmaceuticals are subject to the regulations under Part 266, subpart P.

265.1(c)(15). Add and reserve.

265.1(c)(16). Add language that clarifies reverse distributors that accumulate potentially creditable and evaluated hazardous waste pharmaceuticals are subject to the regulations under Part 266, subpart P.

266 Table of Contents. Revise the Table of Contents to add new Subpart P.

266.500. Add new section for definitions.

266.501. Add new section that describes what types of facilities that generate hazardous waste pharmaceuticals are regulated under Part 266, subpart P and other sections.

266.502. Add new section that establishes standards for healthcare facilities managing non-credible hazardous waste pharmaceuticals.

266.503. Add new section that establishes standards for healthcare facilities that manage potentially creditable hazardous waste pharmaceuticals.

266.504. Add new section that establishes guidelines for healthcare facilities that generate very small numbers of pharmaceutical and non-pharmaceutical hazardous waste. This section establishes standards on where one of these facilities can send their potentially creditable hazardous waste pharmaceuticals. This language also establishes standards for long-term care facilities that are very small quantity generators and those with twenty or fewer beds.

266.505. Add new section that establishes a prohibition on healthcare facilities discharging hazardous waste pharmaceuticals into a sewer system that passes through to a publicly owned treatment works.

266.506. Add new section that offers conditional exemptions for hazardous waste pharmaceuticals if they are also controlled substances and household waste pharmaceuticals collected in a take-back event or program.

266.507. Add new section that defines what it means for containers, syringes, intravenous (IV) bags, and other containers such as delivery devices to be considered "empty."

266.508. Add new section that establishes standards on exporting and importing non-creditable hazardous waste pharmaceuticals from a healthcare facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.

266.509. Add new section that establishes standards for exporting and importing potentially creditable hazardous waste pharmaceuticals from a healthcare facility or a reverse distributor to a reverse distributor.

266.510. Add new section that establishes standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.

268.7 and item (a). Revise title and item (a).

268.50(a)(4) and (5). Add language that states healthcare facilities and reverse distributors must accumulate the wastes prohibited in 268.50(a) in containers on-site solely for the purpose of facilitating proper recovery, treatment, or disposal of the waste, and denotes the section requirements to which these facilities must comply.

270.1(c)(2)(x). Revise to state which section reverse distributors are subject to for potentially creditable and evaluated hazardous waste pharmaceuticals.

270.1(c)(2)(xi) Add language that states that transporters that move hazardous waste only on the site of a hazardous waste generator or a permitted hazardous waste treatment, storage or disposal facility.

273.80(a). Revise to clarify petition language.

273.80(d). Add language that states that hazardous waste pharmaceuticals are not regulated under this section and are managed instead under Part 266, subpart P.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed rule to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 12, 2020, 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>.

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to maintain state consistency with the following EPA regulation published in the Federal Register: “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine” rule, published on February 22, 2019, at 84 FR 5816-5950.

Legal Authority: 1976 Code Sections 44-56-10 et seq.

Plan for Implementation: The Department’s Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary

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of and link to this proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

The Department proposes adopting the "Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine" rule, published on February 22, 2019, at 84 FR 5816-5950. This rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter FDA-approved nicotine replacement therapies. Adoption of this rule is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

The EPA estimates that the annualized cost to industry to comply with the requirements will be off-set by the cost-savings resulting from streamlined management standards for healthcare facilities and regulatory relief with regards to FDA-approved over-the-counter nicotine replacement therapy products (Federal Register, Vol. 84, No. 36, page 5818). The provisions of the final rule are expected to improve regulatory clarity and reduce regulatory burden. Additionally, to the extent that the rule reduces concentrations of hazardous waste pharmaceuticals in surface and drinking waters, this rule may result in improved ecosystems and human health outcomes.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Text:

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

Document No. 4974
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-1-140 et seq.

61-24. Licensed Midwives.

Preamble:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-24 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-24 was last amended in 2013.

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 28, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Amended the Table of Contents to reflect proposed amendments in the text.

Section 100. Definitions and Licensure, title amended for consistency with other Department regulations.

101.A. recodified A.2.i. amended definition for consistency with other Department regulations.

101.B. re-codified from A.2.a.

101.C. re-codified from A.2.b. and amended to update terminology.

101.D. added definition of Authorized Healthcare Provider for consistency with other Department regulations.

101.E. added definition of Birthing Center for clarity

101.F. added definition of Blood Assay Mycobacterium Tuberculosis for consistency with other Department regulations.

101.G. re-codified from A.2.c.

101.H. recodified prior A.2.g.

101.I. added definition of Client for consistency with other Department regulations and for clarity.

Former A.2.d was removed no longer relevant.

101.J. added definition of Compliance Meeting for clarity.

101.K. re-codified from A.2.e and amended for clarity.

101.L. re-codified from A.2.f and amended for clarity.

101.M. re-codified from A.2.h.

101.N. added definition of Discharge for clarity.

Former A.2.i. was removed as it is not relevant.

101.O. added definition of Fetal Presentation for clarity.

101.P. added definition of Home Birth for clarity.

101.Q. added definition of Incident for clarity and consistency with other Department regulations.

101.R. added definition of Inspection for clarity.

101.S. added definition of Investigation for clarity.

101.T. re-codified from A.2.j and amended for consistency with other Department regulations.

101.U. re-codified from A.2.k and amended for consistency with other Department regulations.

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- 101.V. added definition of Low Risk Pregnancy for clarity.
- 101.W. added definition of Medical Consultation for clarity.
- 101.X. added definition of Medication for consistency with other Department regulations and clarity.
- 101.Y. re-codified from A.2.l and amended for consistency with other Department regulations.
- 101.Z. re-codified from A.2.m and amended for clarity.
- 101.AA. re-codified from A.2.n.
- 101.BB. added definition of Neonate for clarity.
- 101.CC. re-codified from A.2.o.
- 101.DD. re-codified from A.2.p and amended for clarity.
- 101.EE. added definition of Physical Examination for clarity and consistency with other Department regulations.
- 101.FF. re-codified from A.2.q.
- 101.GG. added definition of Prescription Medication to reflect statutory-defined term and for clarity.
- 101.HH. added definition of Quarterly for clarity.
- 101.II. added definition of Referral for clarity.
- 101.JJ. added definition of Revocation of License for clarity.
- 101.KK. re-codified from A.2.r and amended for clarity and consistency with other Department regulations.
- 101.LL. added definition of Suspension of License for clarity.
- 101.MM. added definition of Transfer of Care for clarity.
- 101.NN. added definition of Tuberculin Skin Testing for clarity and consistency with other Department regulations.
- 101.OO. added definition of Variance for clarity and consistency with other Department regulations.

Sections B-Q of prior regulation were struck due to recodification and amendments.

- 102. section title added for consistency with other Department regulations. and re-codified from prior Section C.
- 102.A prior C. amended for consistency with other Department regulations.
- 102.B combined language from prior C. and language from other regulations for consistency with other Department regulations.
- 102.C prior B.2 was re-codified and amended for clarity and consistency with other Department regulations.
- 102.D added for clarity and consistency with other Department regulations.
- 102.E prior C.2.a-f amended for clarity and consistency with other Department regulations.
- 102.F added for clarity and consistency with other Department regulations.
- 102.G prior C.7 was amended for clarity and consistency with other Department regulations.
- 102.H added for consistency with other Department regulations.
- 102.I re-codified prior B.9.

- 103. Apprentice Midwife Permit section title added to reflect distinction between permitted Apprentice Midwife and Licensed Midwife.
- 103.A added for clarity and consistency with other Department regulations.
- 103.B added to clarify documentation needed to complete Permit application.
- 103.C added for clarity.
- 103.D added for clarity.
- 103.E added for clarity.

- 104. Variance added for consistency with other Department regulations.

Section 200 – Enforcement of Regulations, section title added for consistency with other Department regulations.

- 201 added for consistency with other Department regulations.
- 202 title added for consistency with other Department regulations.
- 202.A prior B.6 re-codified for consistency with other Department regulations.

- 202.B added for clarity and consistency with other Department regulations.
- 202.C added for consistency with other Department regulations.
- 203. section added for consistency with other Department regulations.

Section 300. Enforcement Actions, added for consistency with other Department regulations.

- 301. added for consistency with other Department regulations.
- 302. added for consistency with other Department regulations and for clarity.
- 302.A added for consistency with other Department regulations and for clarity.
- 302.B added for consistency with other Department regulations and for clarity.
- 302.C added for consistency with other Department regulations and for clarity.
- 302.D added for consistency with other Department regulations and for clarity.
- 302.E added for consistency with other Department regulations.

Section 400. Scope of Practice, prior Section D.

- 400.A re-codified and amended prior D. for clarity.
- 400.B re-codified and amended prior D. for clarity.
- 400.C added to reflect Scope of Practice and provide clarity.
- 400.D added to reflect Scope of Practice and provide clarity.

Section 500. Continuing Education. re-codified section E and added language for clarity.

- 500.A added to provide clarity regarding evidence of completion of 30 contact hours of continuing education during the licensing period in prior C.5.c.
- 500.B re-codified and amended Section E for clarity.

Section 600. Reporting, added for consistency with other Department regulations.

- 601 added for consistency with other Department regulations.
- 601.A added for clarity.
- 601.B added for clarity.
- 601.C added for clarity.
- 602 re-codified prior O.3.a and amended for clarity.
- 603 re-codified prior O.3.d and amended for clarity.
- 604 re-codified prior O.2 and amended for clarity.

Section 700. Client and Neonate Records, added for consistency with other Department regulations.

- 701 re-codified prior O.1 amended for clarity.
- 701.A re-codified prior O.1 amended for clarity.
- 701.B re-codified prior O.1.a amended for clarity.
- 701.C re-codified prior O.1.c.

Section 800. Reserved, section number was added as reserved to align sections of this regulation with other Department regulations.

Section 900. Client Care and Services, added for consistency with other Department regulations.

- 901. re-codified prior F.
- 901.A re-codified prior F.1 amended for clarity.
- 901.B re-codified prior F.3 amended for clarity.
- 901.C re-codified prior F.4 amended for clarity.
- 901.D added to clarify required tests and create section to combine testing required in prior regulation
- 901.E. prior F.4.b,k,l recodified and amended for clarity.
- 901.F. prior H.1 recodified and amended for clarity.
- 902. re-codified prior G.
- 902.A re-codified prior G.1.b amended for clarity.
- 902.B re-codified prior G.2 amended for clarity.

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- 902.C re-codified prior G.1.d.
- 902.D re-codified prior G.1.f amended for clarity.
- 902.E re-codified prior G.1.f amended for clarity.
- 903. re-codified prior H.
- 903.A re-codified prior H.1 amended for clarity.
- 903.B re-codified prior H.2 amended for clarity.
- 904. re-codified prior I.
- 904.A re-codified prior I.1 amended for clarity.
- 904.B re-codified prior I.3 amended to reflect statutory requirements.

Section 1000. Informed Consent, re-codified prior F.5

- 1000.A re-codified prior F.5.
- 1000.B re-codified prior.
- 1000.C add for consistency with other Department regulations.
- 1000.D added for clarity.

Section 1100. Physical Examination, added for consistency with other Department regulations

- 1100.A re-codified prior F.1 amended for clarity.
- 1100.B re-codified prior F.1 amended for clarity.

Section 1200. Prescription Medication Administration, added for consistency with other Department regulations and to allow Midwives to administer certain Prescribed Medications.

- 1200.A next text added to allow Midwives to administer Prescription Medications prescribed and ordered by a Physician or other Authorized Healthcare Provider for a Client of Neonate.
- 1200.B new text to clarify the Prescription Medications a Licensed Midwife or Apprentice Midwife are able to administer.

Section 1300. Medical Consultation, re-codified from prior K and L and amended to clarify Medical Consultation and Referral.

- 1300.A re-codified prior K and L amended for clarity related to Medical Consultations.
- 1300.B re-codified prior K and L amended for clarity related to Referral.

Section 1400. Discharge, added to clarify requirements related to the Discharge of a Client.

Section 1500. Transfer of Care, re-codified and amended prior M.1 and added language related to Transfer of Care.

Section 1600. Maintenance of Equipment, re-codified and amended prior G.3 for clarity.

Section 1700. Infection Control, added for consistency with other Department regulations.

- 1701. added for consistency with other Department regulations.
- 1702. re-codified prior C.6 for consistency with other Department regulations.
- 1702.A.-E. re-codified from prior C.6 and amended to reflect current CDC and DHEC TB Control guidelines.

Section 1800. Midwifery Advisory Council, re-codified from prior P.1 and amended for consistency with other Department regulations and statues related to Departmental advisory council and/or committee responsibilities.

Sections 1900 - 2600. Reserved, section numbers added as reserved to align sections of this regulation with other Department regulations.

Section 2700. Severability, added for consistency with other Department regulations.

Section 2800. General, prior Q. re-codified and amended for consistency with other Department regulations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; HealthRegComm@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, 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 November 12, 2020, 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>.

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: 61-24, Licensed Midwives.

Purpose: The Department proposes amending R.61-24 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-1-140 et seq.

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

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 in accordance with current practices and standards. The amendments include updated language for midwives applying for licensure and incorporate requirements for scope of care, continuing education training, as well as client care and services and prescription medication administration requirements. The amendments revise and incorporate requirements regarding Department inspections and investigations, maintenance of accurate client records, and other requirements for licensure.

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DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-24 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for the licensure of midwives. There are no anticipated effects on the environment.

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

There is no anticipated detrimental effect on the environment. If the proposed revision is 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):

The Department of Health and Environmental Control proposes amending R.61-24. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for midwives applying for licensure and incorporate provisions delineating new requirements in scope of practice, continuing education training, as well as new prescription medication administration and infection control requirements. The amendments revise and incorporate requirements for client and neonate care and services, Department inspections and investigations, maintenance of accurate and current client records, and other requirements for licensure.

Text:

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

Document No. 4979

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

61-55. Septic Tank Site Evaluation Fees.

61-56. Onsite Wastewater Systems.

61-56.1. License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets.

61-56.2. Licensing of Onsite Wastewater Systems Master Contractors.

Preamble:

Pursuant to R.61-56, the Department provides oversight for safe treatment and disposal of domestic wastewater to protect the health of families and communities. In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems).

The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program.

The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program.

The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56.

The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

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

The Department had a Notice of Drafting published in the March 27, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments and Repeals:

R.61-55

Repealed R.61-55 and combined it, as amended, with R.61-56 for simplification purposes.

R.61-56

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Amended text throughout to correct capitalization, punctuation, spelling, formatting, codification, internal citations, and grammatical errors. Also amended “gallons per day” to the abbreviation “gpd” except for one instance. For brevity and space, these modifications are not listed. Corrected references to consistently identify “Registered Professional Engineers licensed in South Carolina.” Corrected numerical references to include both narrative number and parenthetical for consistency (e.g., “one (1) foot”).

Statutory Authority

Added S.C. Code Sections 44-55-825 and 44-55-827.

Table of Contents

Amended section titles, added new sections, and renumbered sections to reflect amendments made in text.

Section 100 Purposes and Scope

Amended: Deleted “human waste” and replaced with “domestic wastewater” for clarity.

Amended: Deleted “best and” and “cost affective” and added “effective” for grammatical purposes.

In Section 101, Definitions and References, the following changes apply:

Added: “Drain Field” and “Absorption Trench” to the “Alternative System” definition due to these being common names used for wastewater infiltration trench within the industry and public.

Added: Definition of “Bond.” Definition incorporated from 61-56.2

Added: Definition of “Cleaning.” Definition incorporated from R.61-56.1.

Added: Definition of “Construction.” Definition incorporated from R.61-56.1 and clarified.

Replaced: Definition of “Domestic Wastewater or Sewage” with separate definitions for “Domestic Wastewater” and “Sewage” to clarify and avoid duplication.

Added: Definition of “Dwelling” to encompass multiple types of residential structures for which an onsite wastewater system would be required, including tiny homes and park model RVs.

Amended: Definition of “Existing System” to replace “residence” with “dwelling” for internal consistency.

Relocated: Definition of “Gleying” so that the definitions remain alphabetized.

Added: Definition of “Gray Water” to accommodate its potential separation from other toilet wastewater within Appendix S, Appendix T, and Appendix U.

Added: Definition of “Gray Water Subsurface Reuse Systems” to address sites where gray water subsurface reuse is desired.

Added: Definition of “License.” Definition incorporated from R.61-56.1 and R.61-56.2.

Added: Definition of “Licensed Onsite Wastewater System Installer” to define the term and specify the scope of authorized activities for each “Tier 1 Installers,” “Tier 2 Installers,” and “Tier 3 Installers.”

Added: Definition of “Nonwater-Carried Sewage Treatment System” to address sites that do not qualify for a conventional, alternative, or engineered onsite wastewater system.

Amended: Definition of “Onsite Wastewater System” to add “Commercial Onsite Wastewater System” for clarity due to this term being used throughout the regulation. Also added language for clarification as it relates to gray water.

Added: Definition of “Other Sewage Holding System.” This term was added to encompass sewage holding systems other than onsite wastewater systems and self-contained toilets to which pumper/hauler requirements of the regulation are applicable.

Amended: Definition of “Perched Zone of Saturation” to remove “A soil horizon that is a perched water table soil horizon that is intermittently saturated with water above a soil horizon that is not saturated with water” and replace with “a saturated zone above an unsaturated zone” for simplicity.

Amended: Definition of “Permit” to add “nonwater-carried sewage treatment system, wastewater combustion system, or gray water subsurface reuse system” to accommodate the addition of these new systems. Added language to describe the two parts of a permit, which are a permit to construct and approval to operate, for clarification. Also removed “survives” and replaced with “remains in effect for” for clarification.

Added: Definition of “Pumping and Transporting Vehicle” for clarification on the vehicles the Department approves for cleaning and transporting septage and sewage.

Amended: Definition of “Redox Depletions” to remove “seasonally” for accuracy because saturated conditions can occur at any time of the year.

Amended: Definition of “Redoximorphic Feature” to remove “seasonally” for accuracy because saturated conditions can occur at any time of the year.

Amended: Definition of “Repair” to remove “surface” and replace with “system,” added “malfunction,” and removed “relocating” and replaced with “relocation or replacement” for clarification.

Amended: Definition of “Repair or Replacement Area” to specify that the area will be identified on the Permit to Construct.

Added: Definition of “Revocation.” Definition incorporated from R.61-56.1 and R.61-56.2 and expanded to encompass licenses, permits, and approvals to operate.

Added: Definition of “Rippable Rock” to further define this term that was previously located in Appendix J.

Added: Definition of “Self-Contained Toilet.” Definition incorporated from R.61-56.1.

Added: Definition of “Septage.” Definition incorporated from R.61-56.1.

Added: Definition of “Sewage.” Definition incorporated from R.61-56.1.

Added: Definition of “Site” for clarification on an area or plot of land that can be evaluated for an onsite wastewater system.

Added: Definition of “Soils Report” for clarification due to Professional Soil Classifiers issuing these reports to the Department for the purpose of a site evaluation.

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Amended: Definition of “Standard” for clarity and to encompass full scope of standards included in the regulation.

Added: Definition of “Subdivision” for clarification and to align with the proposed revisions to the onsite wastewater evaluation/permitting process.

Added: Definition of “Suspension.” Definition incorporated from R.61-56.1 and R.61-56.2 and expanded to include permits to construct, approvals to operate, and licenses.

Added: Definition of “Third-Party” for general clarification and to align with the proposed revisions of third-party involvement during the onsite wastewater evaluation/permitting process.

Added: Definition of “Wastewater Characteristics” to specifically identify what type of wastewater this regulation is referring to for clarity.

Added: Definition of “Wastewater Combustion System” to address sites that do not qualify for a conventional, alternative, or engineered onsite wastewater system.

Amended: Definition of “Wastewater Infiltration Trench” to remove language that is obsolete due to the addition of System Standard 100.

Section 101.2(1) & (2). Removed these sections to align with other Department regulations for consistency.

Section 101.2(3). Renumbered to adjust the codification.

Section 102 Onsite Wastewater System Site Evaluation and Fees

Section 102.1(1). Added to clarify when site evaluation fees are due.

Section 102.1(2). Added to clarify which individuals are authorized to conduct soil evaluations for onsite wastewater systems.

Section 102.1(3). Added to clarify which individuals are authorized to produce system layouts of onsite wastewater systems.

Section 102.1(4). Added to clarify which particular systems Registered Professional Engineers must design.

Section 102.2(5). Added to propose a new approach to onsite wastewater system soil evaluations and system layouts for subdivisions.

Section 102.2. Incorporated and amended language from R.61-55 in reference to onsite wastewater site evaluation fees for clarity.

Section 102.3. Incorporated language from R.61-55 regarding how fees derived by onsite wastewater program will be utilized.

Section 103 Onsite Wastewater Systems (formerly Section 102 General)

Section 103 (formerly 102) was renumbered to adjust the codification and retitled for clarity.

Section 103.1(1). Deleted “unit, building” and left the word “dwelling” to align with new definition of dwelling which encompasses many structures.

Section 103.1(2). Added clarification to require a permit for Nonwater-Carried Sewage Treatment Systems, Wastewater Combustion Systems, and Gray Water Subsurface Reuse Systems.

Section 103.1(3). Deleted “building” and added “dwelling, business, or other structure” for internal consistency. Added clarification regarding need for permit for Nonwater-Carried Sewage Treatment Systems, Wastewater Combustion Systems, and Gray Water Subsurface Reuse Systems.

Section 103.1(4). Deleted “permit holder” and added “property owner,” added “all onsite wastewater system(s) and their parts,” deleted “and operate as efficiently as possible, all facilities and systems which are installed pursuant to the permit,” added “previously issued,” and added “system parts may include, but are not limited to, sealed watertight tanks, lid(s), piping, aggregate, pump, and pump components” for clarification.

Section 103.1(5)(b). Rephrased the beginning of the provision to read “If a public entity owns the system, the entity” for clarity.

Section 103.1(5)(e). Added title of R.61-67.300 for clarification.

Section 103.2. Added title of R.61-9.505 for clarification.

Section 103.3. Added “Bureau of Water” and deleted “Department” for clarity. Deleted “assess the risk to public health and/or groundwater contamination” and added “determine if the waste may cause a violation of any drinking water standard under R.61-58.5 or may otherwise adversely affect the health of persons” for clarification per the Bureau of Water.

Section 103.4(3). Deleted “unsewered” so as not to duplicate the first sentence within this section that already details the campgrounds not being furnished with sewer service connections.

Deleted former Section 102.6 to simplify and avoid duplication of information in the large system standard (System Standard 150) and specialized system standard (System Standard 610).

Section 104 Application, Permit, Final Inspection, and Approval (formerly Section 103 Application, Permit, Approval)

Section 104 (formerly 103) was renumbered to adjust the codification and retitled to encompass final inspection.

Section 104.1(1). Added “in a format as identified” and deleted “on the application form provided” as well as added “complete and accurate” and deleted “correct” for clarification and grammatical reasons.

Section 104.1(2). Added this section pertaining to written permission from property owners for the Department to access their lot for site evaluations to align with current application requirements.

Section 104.1(3). Deleted “and its boundaries” and added “The Department may require a legal description that includes lot boundary lengths” for clarification on required plats, deeds, or other legal document to ensure boundary lengths are included on all when submitted with the onsite wastewater system application.

Section 104.1(5). Added this section pertaining to backhoe pit requirement in certain regions of the state to improve efficiency of site evaluations.

Section 104.1(6). Replaced “may” with “shall” to clarify mandatory nature of requirements. Added “pertinent” when referring to marking property boundary lines and corners due to large acre lots not requiring all lines and corners be marked, just the ones positioned near the proposed onsite wastewater system. Added “as well as proposed drain field area” for clarification. Added “A site sketch shall be included on the application or as a

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separate attachment that reflects the items above, and any other items specified on the application” to align with current application requirements.

Section 104.1(7). Added language to clarify when the Department will not issue a permit, as well as to clarify that the Department has the right to modify a system layout submitted by a Professional Soil Classifier when deemed appropriate.

Section 104.2(1). Amended first sentence to include nonwater-carried sewage treatment systems, wastewater combustion systems, and gray water subsurface reuse systems. Amended first sentence to provide clarification on the need for both a permit to construct and approval to operate. Amended language to better clarify how applicants should submit requests for permit modifications and to expressly specify when a fee will be assessed for modifications. Added language referring to relocating or replacement of a system or system components.

Section 104.2(2). Added “permitted” and removed “onsite wastewater” to encompass all systems including nonwater-carried sewage treatment systems, wastewater combustion systems, and gray water subsurface reuse systems.

Former Section 103.2(3). Deleted language because it is no longer applicable.

Former Section 103.3. Deleted in entirety in light of updated language concerning final inspections and approval in the newly proposed Section 104.3.

Section 104.3. Added to clarify which individuals are authorized to conduct final inspections for onsite wastewater systems, how final inspections should be conducted and scheduled, what documentation should be submitted to the Department, and the Department process for issuance of Approval to Operate.

Section 200 Minimum Site Conditions

Section 200.6. Renumbered to adjust the codification and titled to encompass all setbacks.

Section 200.6(1). Added “excluding solid pipes” language to denote that solid pipes do not require the same setbacks as the rest of the onsite wastewater system.

Section 200.6(1)(b). Deleted and relocated to the large system standard the language pertaining to setback to a receptor. Also deleted language pertaining to a public well because such language is stated in 200.6(1)(c).

Section 200.6(1)(d). Added “and retention ponds” language to address setbacks to retention ponds which were not previously addressed within the regulation.

Section 200.6(1)(f). Added “including any detention ponds (determined by maximum water elevation)” language to address setbacks to detention ponds which were not previously addressed within the regulation.

Section 200.6(1)(g). Added language to address setbacks to piped drainage ditches which were not previously addressed within the regulation.

Section 200.6(1)(h). Added language to address setbacks to inground pools which were not previously addressed within the regulation.

Section 200.6(1)(i). Added language to address setbacks to basements which were not previously addressed within the regulation.

Section 200.6(2). Removed “alternative” to reflect all system standards.

Section 200.6(3). Amended previous language in certain system standards pertaining to jurisdictional wetlands and relocated it here so that it reflects all system standards.

Section 200.7(1). Deleted language referring to impervious material and relocated language to section 200.7(2).

Section 200.8. Amended to correct internal citation.

Section 201 Minimum Requirements for Onsite Wastewater System Primary Treatment

Section 201, Title. Amended section title to specify “Onsite Wastewater System.”

Section 201.1(4). Deleted “including condominiums, apartments, and mobile homes” to align with new definition of dwelling which encompasses many structures. Added “septic tank” to clarify minimum septic tank capacities required for multiple dwellings.

Section 201.2(1). Amended language referring to when a grease trap is required for clarification.

Section 201.2(2). Amended language so that any existing food service establishment that experiences a malfunction as a result of grease accumulation will be required to comply with all portions of the regulation for consistency.

Section 201.3. Added “requested by a Registered Professional Engineer” for clarification.

Section 202 Minimum Requirements for Onsite Wastewater System Final Treatment and Disposal Systems

Section 202, Title. Amended section title to specify “Onsite Wastewater System.”

Section 202.1(8). Amended references to former Appendix R and former Appendix Q to align with new codification.

Section 203 Onsite Wastewater System Construction Criteria

Section 203, Title. Amended section title to specify “Onsite Wastewater System.”

Section 203.8. Added “Class” in front of each roman numeral for clarification.

Section 204 Evaluation of Alternative Infiltration Trench Products

Section 204.2(3)(a). Amended equation for “Trench Sidewalls” to replace the division sign with a multiplication sign.

Section 204.4. Deleted “backfill” and added “soil cover.” Deleted “Unless a lesser amount is approved by the department” to adequately describe the fill material.

Former Section 302 Enforcement Provisions

Former Section 302. Deleted in its entirety so that its relevant terms could be consolidated with all other enforcement provisions in Section 800.

Former Section 303 Repeal and Date of Effect

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Former Section 303. Deleted section as obsolete.

Section 302 Changes in Use That Impact Existing Onsite Wastewater Systems (formerly Section 304)

Section 302 (formerly 304) was renumbered to adjust to the deleted former Sections 302 and 303.

Amended language for clarification on submission of an application and receipt of a permit to construct for an upgrade or expansion prior to making alterations.

Former Section 305 Severability Clause

Former Section 305. Deleted to eliminate duplication within the regulation.

Section 400 Appendices of Standards for Permitted Systems

Section 400, Title. Section 400, Title, is amended to replace “Onsite Wastewater” with “Permitted” to encompass all permitted systems.

Section 400 section numbers have been deleted so only appendices represent each section.

Each Appendix has been renumbered to adjust codification.

Appendix A. Added Appendix A and associated diagram to represent a conventional onsite wastewater system for clarification.

Appendix B(1)(a). Amended language to require Registered Professional Engineers to design System Standard 150 systems.

Appendix B(1)(b). Added this deleted language from section 200.6 as this statement specifically refers to the large system standard.

Appendix B(1)(h)(iv). Amended to correct internal citation.

Appendix B(3)(g). Amended language for clarity and to encompass all system components.

Appendix C(1)(c). Added “Class” in front of the roman numerals for clarification.

Appendix C(1)(g). Removed “Level installations on slightly sloping sites can be considered if the above requirement can be met” to align with the first sentence of the paragraph stating system must not be used on sloping sites unless specified requirements are met.

Former Appendix B, Section 402.2(1). Deleted to allow serial distribution if it can be demonstrated.

Appendix C(2)(b). Deleted “maximum” and “the minimum width shall be eighteen (18) inches.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix C System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix C(2)(b).

Appendix D(1)(c). Added “Class” in front of the roman numerals for clarification.

Appendix D(1)(g). Removed “Level installations on slightly sloping sites can be considered if the above requirement can be met” to align with the first sentence of the paragraph stating system must not be used on sloping sites unless specified requirements are met.

Former Appendix C, Section 403.2(1). Deleted to allow serial distribution if it can be demonstrated.

Appendix D(2)(b). Deleted “maximum” and “the minimum width shall be eighteen (18) inches.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix D System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix D(2)(b).

Appendix E was renamed to align with title in Table of Contents.

Appendix E(1)(d). Amended language regarding sloping sites for clarification.

Appendix E(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be eighteen (18) inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix E(2)(c). Deleted “backfill” and added “of soil cover” for clarification. Fill caps are constructed from foreign soil brought to the site and not from backfill soil excavated from trenches on site. Deleted “see attached illustration” because language is not necessary.

Appendix E(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix E System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix E(2)(a).

Appendix F(1)(d). Amended language regarding sloping sites for clarification.

Appendix F(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be 18 inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix F(2)(c). Deleted “see attached illustration” for consistency.

Appendix F(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix F System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix F(2)(a).

Appendix G(1)(c). Amended to correct internal citation.

Appendix G(2)(a). Deleted “aggregate” and added “of approved aggregate” to clarify that only approved aggregate shall be utilized.

Appendix G System Standard Diagrams (A) and (B). Amended for diagram clarity and to add “Services” to the Department name.

Appendix H(1)(d). Amended language regarding sloping sites for clarification.

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Appendix H(2)(a). Deleted “maximum,” “must not exceed,” and “the minimum width shall be eighteen (18) inches” and added “shall be.” This standard requires that the only permissible trench width be thirty-six (36) inches.

Appendix H(2)(d). Deleted “see attached illustration” for consistency.

Appendix H(2)(e). Added language regarding fill cap on sloping sites to address varying site conditions.

Appendix H System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align with the revised trench width in Appendix H(2)(a).

Former Appendix H, Section 408.1(1). Deleted to increase systems versatility to address varying site conditions.

Former Appendix H, Section 408.1(2). Deleted language because it is no longer applicable.

Appendix I(1)(d). Deleted table titled “Factors (F) for Maintaining Equivalent Infiltrative Surface Area” to avoid duplication with the system standard diagram. Deleted internal reference to the system diagram.

Appendix I(2)(a). Deleted “shall always be kept as narrow as possible” for simplicity.

Appendix I System Standard Diagram. Amended for diagram clarity, to add “Services” to the Department name, and to align the equation presented in the table on the diagram to the equation presented in section 204.2. Also corrected reference to total infiltrative surface area per linear foot of conventional type trench to read 5.33 sq ft/ft.

Appendix J(1)(a). Deleted internal citation to reflect the deletion of former Section 409.1(9)(b).

Former Appendix I, Section 409.1(9)(b). Deleted language because a more detailed definition of Rippable Rock was added in Section 101.1 Definitions.

Appendix J(2)(a). Deleted “aggregate” and added “of approved aggregate” to clarify that only approved aggregate shall be utilized.

Appendix J System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Appendix K. Added Appendix K and associated diagram to represent an alternative trench width and depth system with fill cap to allow for conservative components of two different systems to be used in conjunction with one another depending on site conditions.

Former Appendix J, Section 410.1(3). Deleted language to increase systems versatility to address varying site conditions.

Former Appendix J, Section 410.2(1). Deleted language to increase systems versatility to address varying site conditions.

Appendix L(2)(c). Deleted “see attached sketch” for consistency.

Former Appendix J, Section 410.2(9). Deleted text and table as the same table is displayed in the system standard diagram.

Appendix L System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Appendix M System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix L, Section 412.1(6). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Former Appendix L, Section 412.1(9). Deleted language due to the deletion and relocation of Appendix L, Section 412.1(6).

Appendix N(2)(b) and (2)(b)(ii). Amended to delete “see ref. sketch” for consistency.

Appendix N System Standard Diagram. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix M, Section 413.1(1). Deleted language due to the deletion and relocation of Appendix M, Section 413.1(9).

Former Appendix M, Section 413.1(9). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix O(2)(b)(i). Deleted “seasonal” for accuracy because saturated conditions can occur at any time of the year.

Appendix O(2)(b)(ii) and (iii). Added language regarding individual system layout.

Appendix O(2)(b)(vii) and (viii). Added “class” in front of roman numeral for clarification. Deleted “see attached illustration” for consistency.

Appendix O System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name. Added Diagrams B and C for clarification and demonstration.

Former Appendix N, Section 414.1(6). Deleted language due to the deletion and relocation of Former Appendix N, Section 414.1(8).

Former Appendix N, Section 414.1(8). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix P(2)(c)(ii). Added language for further clarification regarding design and installation of low-pressure pipe distribution.

Appendix P System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name.

Former Appendix O(2)(b). Deleted and relocated language to Section 200.6(3). All systems may be required to get approval from the appropriate permitting agency if it is determined a system is to be installed in a wetland.

Appendix Q(1)(b)(ii). Added language to clarify offsets to environmentally sensitive waters.

Appendix Q(1)(b)(v). Added language at the request of stakeholder input to address operation and maintenance concerns.

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Appendix Q(1)(d). Added language to further define reporting requirements of installation (i.e. requirements related to submission of as-built plans and notification of construction schedule).

Appendix R(1)(b). Deleted “and shall range in size from one half (1/2) inch to two and one half (2 ½) inches. Fines are prohibited”. Due to increased technology, approved aggregate for this system standard is not limited to just gravel.

Appendix R(1)(c). Added “utilizing tire chips or gravel or a similar type of approved product.” Due to increased technology, approved aggregate for this system standard is not limited to just gravel.

Appendix R(1)(e). Deleted “A minimum one (1) percent fall (12 inches per 100 feet) shall be utilized” to increase systems versatility to address varying site conditions.

Appendix R(1)(o). Added “inspection port” for clarification.

Appendix R System Standard Diagrams. Amended for diagram clarity and to add “Services” to the Department name.

Appendix S. Added Appendix S to represent Nonwater-Carried Sewage Treatment Systems for areas that would not qualify for a traditional onsite wastewater system.

Appendix T. Added Appendix T to represent Wastewater Combustion Systems for areas that would not qualify for a traditional onsite wastewater system.

Appendix U. Added Appendix U to represent Gray Water Subsurface Reuse Systems to address sites where gray water subsurface reuse is desired.

Section 500 – Long-Term Acceptance Rate Standard for Onsite Wastewater Systems (formerly 500 Appendix Q – Long-Term Acceptance Rate Standard for Onsite Wastewater Systems)

Section 500 (formerly 500 Appendix Q) was renumbered to adjust the codification.

Section 500, chart. Deleted “Sandy” and added “Sand” to align with the grammatical structure of the other soil characteristic descriptions in the table.

Section 500, chart. Added soil texture “Silt.” Silt is one of the soil textures described in the USDA-NRCS Field Book for Describing and Sampling Soils.

Section 501 – Peak Sewage Flow Rate Standard (formerly 501 Appendix R – Peak Sewage Flow Rate Standard)

Section 501 (formerly 501 Appendix R) was renumbered to adjust the codification.

Section 501, chart. Added “for domestic wastewater only, no infectious waste” to the Mortuary row to delineate between which types of waste the onsite wastewater system will treat.

Section 501, chart. Added “Hotel” to the Motel row for clarification.

Section 501, chart. Added “Dwelling” to the Residential row and deleted the examples for residential to align with the new dwelling definition. The definition encompasses multiple residential structures for which an onsite wastewater system would be required.

Section 501, chart. Added a row for “Residential Out-Building” to accommodate the current demand for these types of systems.

Section 502 – Onsite Wastewater Pump System Standard (formerly 600 Appendix S – Onsite Wastewater Pump System Standard)

Section 502 (formerly 600 Appendix S) was renumbered to adjust the codification.

Section 502.1(3). Deleted “seasonal” for simplification because saturated conditions can occur at any time of the year.

Section 502.1(5). Amended language pertaining to pump tank capacity. Proposing pump tank size be no less than 500 gallons for consistency and to assist in maintaining the minimum pump rate.

Section 502.2(1). Deleted “the Standard for Determining Sewage Flow Rates from Commercial and Recreational Establishments” and added “Section 501, Peak Sewage Flow Rate Standard” for clarity and accuracy.

Section 502.3(2). Amended language pertaining to form 1739. Form 1739 has been replaced by the onsite wastewater permit to construct.

Section 502.4(6). Added language to state that force mains crossing ditches, bodies of water, under driveways, and parking areas must be encased within another pipe to withstand damage for extra protection and safety reasons.

Section 502.6(1). Amended language pertaining to form 1739. Form 1739 has been replaced by the onsite wastewater permit to construct.

Section 503 – Minimum Design Standards for Tank Construction (formerly 700 Appendix T – Minimum Design Standards for Tank Construction)

Section 503 (formerly 700 Appendix T) was renumbered to adjust the codification.

Section 503.1. Deleted “disposal” to align with the revisions that describe septic systems as onsite wastewater systems, not onsite wastewater disposal systems.

Section 503.2(1) and (7). Deleted “disposal” to align with the revisions that describe septic systems as onsite wastewater systems, not onsite wastewater disposal systems.

Section 503.2(2) and (6). Amended to change “make” to “submit a” for clarity.

Section 503.3(17). Amended language to read “risers or manhole covers, as applicable” for clarity.

Section 503.3(20). Amended “local health department” to read “Department” for clarity and accuracy.

Section 504 – Fiberglass Reinforced Plastic Tanks Standard (formerly 800 Appendix U – Fiberglass reinforced plastic tanks)

Section 504 (formerly 800 Appendix U) was renumbered to adjust the codification.

Section 504. Amended to change “assure” to “to ensure” for clarity.

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Section 504.1. Amended “herein” to read “within this regulation” for clarity, and deleted second use of word “herein” for clarity.

Section 504.1(7). Amended “are to present” to read as “shall have” for clarity.

Section 504.3(1)(d). Amended to change “Division of Onsite Wastewater Management” to “Department” for consistency and clarity.

Section 505 – Thermoplastic Tanks Standard (formerly 900 Appendix V – Thermoplastic Tanks Standard)

Section 505 (formerly 900 Appendix V) was renumbered to adjust the codification.

Section 505(2). Amended to change “Division of Onsite Wastewater Management” to “Department” for consistency and clarity.

Section 505(3). Added language to require that thermoplastic tank manufacturers renew their product approval every five years for consistency.

Section 600 License to Clean Onsite Wastewater Systems, Self-Contained Toilets, and Other Sewage Holding Systems (i.e., Pumper/Hauler)

Section 600 (including language formerly appearing in R.61-56.1) was added to encompass pumper/hauler licensing.

Section 600.1. Added section from R.61-56.1, as amended for clarification, to incorporate prohibition against cleaning onsite wastewater systems, self-contained toilets, and other sewage holding systems without a license.

Section 600.2. Added section to incorporate R.61-56.1’s requirements for licenses, applications, and fees related to the cleaning of onsite wastewater systems, self-contained toilets, and other sewage holding systems, amended for clarification and effective administration. This section includes information for how license applications should be submitted, parameters for vehicle inspections, testing requirements, and fees.

Section 600.3. Added section from R.61-56.1 allowing other governmental entities to have requirements that are more stringent than state requirements, as amended for clarification.

Section 600.4. Added section allowing sewer providers using pumping and transporting vehicles for the sole purpose of maintaining their sewer systems to be exempt from the licensing requirements of Section 600 of the regulation.

Section 601 Vehicles, Equipment, and Practices

Section 601 (including language formerly appearing in R.61-56.1) was added to encompass requirements related to vehicles, equipment, and practices for removal and transport of septage and sewage.

Section 601.1. Added section from R.61-56.1 establishing vehicles requirements related to pumping. Updated language to expressly note “hazard to the public health and the environment”. Added reference to “sewage” in addition to septage.

Section 601.2. Added section from R.61-56.1 specifying proper cleaning processes for pumpers, as amended for clarification.

Section 601.3. Added section from R.61-56.1 specifying disposal requirements for the septage material, as amended to add reference to “sewage” in addition to septage.

Section 601.4. Added section from R.61-56.1 establishing supervisory requirements for the licensee, as amended for clarification.

Section 602 Records of Operation

Section 602. Added section in its entirety (including language formerly appearing in R.61-56.1) setting forth the record keeping requirements for the handling and disposal of septage material.

Section 700 Licensing of Installers

Section 700.1 Added section (including language formerly appearing in R.61-56.1 and R.61-56.2, as amended) identifying requirements for licenses, application, and fees associated with the licensure of an installer. This includes the three tiers of licensing and associated fees and eligibility requirements.

Section 701 Continuing Education and Training

Section 701. Added section in its entirety establishing continuing education requirements and provisions for implementation.

Section 702 Practice, Procedure, and Quality Control

Section 702. Added section in its entirety, including relevant language from R.61-56.2, as amended, setting forth operating constraints within each tier of installer licensure and quality control measures from the Department.

Section 703 Bonding and Insurance Requirements: Tier 3 Installers

Sections 703.1, 703.2, and 703.3. Added provisions from R.61-56.2 requiring bonding and insurance for Tier 3 installers.

Section 704 Transition to Tiered Licensure

Section 704. Added section in its entirety defining how current onsite wastewater installers will transition into their appropriate licensing tier on the effective date of the regulatory amendments.

Section 800 Enforcement

Section 800. Added section in its entirety to consolidate in one section all enforcement provisions pertaining to violations of the regulation, violations of permits, and suspension and revocation of Department permits to construct, approvals to operate, and licenses. This section includes enforcement provisions from the current R.61-56, R.61-56.1, and 61-56.2 with amendments as needed for clarity, comprehensiveness, and effective regulatory oversight.

Section 801 Severability Clause

Section 801. This section added to shift it from its current location in the regulations, for clarity.

R.61-56.1

Repealed R.61-56.1 and combined it, as amended, with R.61-56 to streamline processes.

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R.61-56.2

Repealed R.61-56.2 and combined it, as amended, with R.61-56 to streamline processes.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments and repeals to David Vaughan of the Bureau of Environmental Health Services; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; fax at (803)896-0645; or email at vaughadr@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments and repeals during its November 12, 2020, 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>.

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

Preliminary Fiscal Impact Statement:

There is no anticipated additional cost to the Department or state government due to any requirements of this amendment.

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: 61-55, Septic Tank Site Evaluation Fees; 61-56, Onsite Wastewater Systems; 61-56.1, License To Construct Or Clean Onsite Sewage Treatment And Self-Contained Toilets; and 61-56.2, Licensing Of Onsite Wastewater Systems Master Contractors.

Purpose: The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program. The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program. In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56. The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

Legal Authority: 1976 Code Section(s) 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

Plan for Implementation: Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the new amendments and repeals 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 and repeals. 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 and repeals are needed and reasonable, as they will provide clarification regarding the requirements and standards contained in R.61-56 and consistency with the latest scientific, industrial, and technological changes in onsite wastewater system design, construction, and installation. Furthermore, the proposed amendments will simplify the licensure of those operators that clean or pump sewage treatment and disposal systems and, for organization and clarity, provide a tiered structure for the licensure of operators that construct or install these systems. The proposed amendments will also serve to modernize the regulation and streamline permitting procedures to improve overall effectiveness of the Department's administration of the regulation.

DETERMINATION OF COSTS AND BENEFITS:

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

External Costs: The proposed revisions do not increase any fees charged by the Department under the current regulations. The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

Benefits: These amendments upgrade overall quality and practicality, improve clarity and consistency, reflect changes in design, construction, and installation of onsite wastewater system nomenclature and technology, separate the licensing of pumper/haulers and installers, provide for tiered licensure, streamline permitting, clarify existing definitions, and add new definitions and standards for site and system requirements.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There is no anticipated negative environmental or public health effect resulting from the proposed amendments and repeals of these regulations. Positive benefits include fostering increased installer competency through new

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continuing education requirements and the tiered system of licensure according to system complexity. The additions also enable the Department to focus efforts on ensuring installations are performed in accordance with the issued permit while allowing additional input in the soil evaluation and system layout stages from professionally certified persons.

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

The negative effect on the environment and public health if the proposed amendment of this regulation is not implemented would be less efficiency and clarity for industry and reduced effectiveness and efficiency in the Department's oversight of the disposal of septage and sewage.

Statement of Rationale:

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

The Department proposes amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program. The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program. In the interest of efficiency, the Department also proposes repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56. The Department also proposes other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

Text:

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

Document No. 4977
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-260 et seq.

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

Preamble:

The Department of Health and Environmental Control ("Department" or "DHEC") proposes amending R.61-75 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training,

medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other DHEC Healthcare Quality regulations.

The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-75 was last amended in 2015.

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 28, 2020, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Amended the Table of Contents to reflect proposed amended text.

Amended text throughout to capitalize defined terms.

Added and amended violation classifications throughout for consistency with other DHEC Health Quality regulations.

The proposed amendments update the structure of the regulation throughout for consistency with other DHEC Health Quality regulations.

Section 100 title amended and reformatted for consistency with other Department regulations.

101. Definitions.

101.C definition added for clarity.

101.D (former 101.C) definition amended for clarity per public comment.

101.E definition added for clarity.

101.F (former 101.D) definition amended for clarity and consistency with other Department regulations.

101.G definition added for clarity and consistency with other Department regulations.

101.H definition added for consistency with other Department regulations.

101.I definition added for consistency with other Department regulations.

101.J (former 101.E) definition amended to remove redundancy.

101.G definition removed due to being irrelevant.

101.L (former 101.H) definition amended for clarity.

101.M definition added for clarity and amended for consistency with other Department regulations.

101.N definition added for clarity and amended for consistency with other Department regulations.

101.P definition added for clarity and to include an adopted public comment.

101.Q definition added for clarity and amended for consistency with other Department regulations.

101.R definition added for clarity and amended for consistency with other Department regulations.

101.S definition added for clarity and amended for consistency with other Department regulations.

101.T definition added for clarity and amended for consistency with other Department regulations.

101.U definition added for clarity and amended for consistency with other Department regulations.

101.V (former 101.J) definition amended for clarity and consistency with other Department regulations.

101.K definition removed due to being irrelevant.

101.W definition added for clarity and consistency with other Department regulations.

101.X (former 101.M) definition amended to remove redundancy.

101.N definition removed due to being irrelevant.

101. Y definition added for clarity and consistency with other Department regulations .

101.Z definition added for clarity and consistency with other Department regulations.

101.AA definition added for clarity.

101.BB definition added for consistency with other Department regulations.

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- 101.CC (former 101.O) definition amended for clarity per public comment.
- 101.DD definition added for clarity and consistency with other Department regulations.
- 101.EE definition added for consistency with other Department regulations.
- 101.FF definition added for clarity and consistency with other Department regulations.
- 101.GG definition added for clarity and consistency with other Department regulations.

Section 102. Licensure. (former 102.Licensure Requirements.) amended for consistency with other Department regulations.

- 102.A amended for consistency with other Department regulations.
- 102.B amended for consistency with other Department regulations.
- Former 102.C re-codified to 102.D.
- Former 102.D re-codified to 102.D.
- Former 102.E re-codified to 102.D.
- 102.C recodified from former 102.I and amended for consistency with other Department regulations.
- 102.D added for consistency with other Department regulations.
- 102.E (former 102.F) amended for clarity.
- 102.F (former 102.G) amended for consistency with other Department regulations.
- 102.G added for clarity.
- 102.H amended for clarity and consistency with other Department regulations.
- 102.I amended for clarity and consistency with other Department regulations.
- 102.J added for clarity and consistency with other Department regulations.
- Former 102.K recodified to Section 800.
- 102.K (Former 102.J) amended for clarity and consistency with other Department regulations.
- Former 102.L recodified to 102.C for consistency with other Department regulations.
- Former 102.M recodified to 1000.C.
- Former 102.N recodified to 102.M and amended for clarity and consistency with other Department regulations.
- 102.L added for consistency with other Department regulations.
- 102.M recodified from former 102.N and amended for clarity and consistency with other Department regulations.

Former **103. Facility Closure.** recodified to Section 602 for consistency with other Department regulations.

Former **104. Zero Census.** recodified to Section 602 for consistency with other Department regulations.

Section 200 title amended for consistency with other Department regulations.

202. Inspections/and Investigations.

- 202.B amended for consistency with other Department regulations.
- 202.C amended for create clarity.
- 202.D amended for clarity.
- 202.E amended for clarity and consistency with other Department regulations and to adhere to statute.
- 202.F amended for clarity and consistence with other Department regulations

Section 300 title reformatted for consistency with other Department regulations.

301. General. (Former **301. Enforcement Actions.**) title amended for consistency with other Department regulations. Text amended for clarity.

302. Violation Classifications.

- 302.A,B,C,D amended for clarity.
- 302.E amended for clarity and consistency with other Department regulations.

302.F amended for consistency with other Department regulations.

Section 400 title reformatted for consistency with other Department regulations.

Former **401. Policies and Procedures.** title removed due to redundancy.

400.A (former 401.A) amended for clarity and partly recodified to 400.B,C.

400.B recodified from former 401.A and amended for consistency with the requirements of this regulation and the Alzheimer's Special Care Disclosure Act.

400.C recodified from former 401.A and amended for clarity.

Former **402. Administrator.** recodified to 502.A,B for consistency with other Department regulations.

Former **403. Administrative Records.** recodified for consistency with other Department regulations.

Former 403.A recodified to Section 1500 and 1601.

Former 403.B recodified to 901.

Former 403.C recodified to 902.

Former 403.D recodified to 1303.

Former 403.E recodified to 102.B.

Former 403.F removed due to not being necessary.

Former 403.G recodified to 2605.

Former 403.H recodified to 2500.A

Former **404. Personnel.** recodified for consistency with other Department regulations.

Former 404.A recodified to 501.A.

Former 404.B recodified to 503.A.

Former 404.C recodified to 501.B.

Former 404.D recodified to 506.

Former 404.E recodified to 504.

Former 404.F recodified to 505.

Former 404.G recodified to 501.B.

Former 404.H recodified to 505.F.

Former **SECTION 500. CARE OF PARTICIPANTS** removed and recodified to various sections for consistency with other Department regulations.

Former **501. Activities and Programs.** recodified for consistency with other Department regulations.

Former 501.A recodified to 901.A.

Former 501.B recodified to 901.B.

Former 501.C recodified to 901.B.

Former 501.D recodified to 901.C.

Former 501.E recodified to 901.D.

Former 501.F removed due to being redundant.

Former 501.G recodified to 1901.B.

Former 501.H,I recodified to 1901.A.

Former **502. Medical Needs.** recodified for consistency with other Department regulations.

Former 502.A recodified to 1100.A.

Former 502.B recodified to 1100.B.

Former 502.C recodified to 1100.A.

Former 502.D recodified to 1200.A

Former 502.E recodified to 1200.C.

Former **503. Participant Records.** recodified to 701.A,B for consistency with other Department regulations.

SECTION 500 – STAFF AND TRAINING added for consistency with other Department regulations.

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501. General. add for consistency with other Department regulations.

501.A recodified from 404.A for consistency with other Department regulations.

501.B recodified from 404.C and 404.G for consistency with other Department regulations.

502. Administrator. recodified from former Section 400 for consistency with other Department regulations

502.A recodified from former 402.A.

502.B recodified from former 402.B.

502.C recodified from former 402.A and amended for consistency with other Department regulations.

502.D recodified from former 402.A and amended for consistency with other Department regulations.

503. Staffing. recodified from former 404 for consistency with other Department regulations.

503.A recodified from former 404.B

503.B added for consistency with other Department regulations.

504. Orientation. recodified from former 404.E and amended for clarity and consistency with other Department regulations.

505. Training. recodified from former 404.F,H and amended for clarity.

506. Health Assessment. Recodified from former 404.D and amended for consistency with other Department regulations.

Former **SECTION 600. FOOD SERVICE** recodified to 1300 for consistency with other Department regulations.

Former **601. General** recodified for consistency with other Department regulations.

Former 601.A recodified to 1301.A.

Former 601.B recodified to 1301.B.

Former 601.C recodified to 1301.C.

Former 601.D recodified to 1301.C.

Former 601.E removed due to redundancy.

Former 601.F recodified to 1301.D.

Former 601.G removed due to being unnecessary.

Former **602. Meals and Special Diets** recodified to 1302.

Former 602.A recodified to 1302.A.

Former 602.B recodified to 1302.B.

Former 602.C recodified to 1302.B.

Former 602.D recodified to 1302.B.

SECTION 600 – REPORTING. Add for consistency with other Department regulations.

601. Incidents. add for consistency with other Department regulations.

601.A recodified from former 503.A.6 and 703 and amended for clarity and consistency with other Department regulations.

601.B recodified from former 703 and amended for clarity.

601.C recodified from 703.B and amended for clarity.

602. Closure and Zero Census. add for consistency with other Department regulations.

602.A recodified from former 103.A and amended for clarity.

602.B recodified from former 103.B and amended for clarity.

602.C recodified from former 104 and amended for clarity.

602.D recodified from former 103.A and amended for clarity.

603. Reportable Diseases and Infections. add for consistency with other Department regulations.

Former **SECTION 700. FUNCTIONAL SAFETY** recodify to various sections for consistency with other Department regulations.

Former **701. Maintenance** recodified to 1601 for consistency with other Department regulations.

Former **702. Emergency/Disaster Preparedness** recodified for consistency with other Department regulations.

Former 702.A recodified to 1401, 1501, and 1503.B.

Former 702.B recodified to 1504.A

Former 702.C removed due to being unnecessary.

Former **703. Accidents/Incidents** recodified to 601 for consistency with other Department regulations.

SECTION 700 – PARTICIPANT RECORDS added for consistency with other Department regulations.

701. Content. recodified from 503.A and amended for clarity.

702. Assessment. recodified from 503.A.4.a and amended for clarity.

703. Individual Plan of Care. recodified from 503.A.4 and amended for clarity and consistency with other Department regulations and to partially adopt public comment.

704. Record Maintenance. add for consistency with other Department regulations.

Former **SECTION 800. INFECTION CONTROL AND SANITATION** recodified to 1700.

Former **801. General.** recodified to 1700.A

Former **802. Linen and Laundry.** recodified to 1703 and 2602.F.

Former **803. Housekeeping.** recodified to 1704.

Former **804. Sanitation.** recodified to 1705.

Former **805. Outside Areas.** recodified to 1706

Former **806. Pets.** recodified to 1707.

Former **807. Tuberculosis Risk Assessment.** recodified to 1702.

Former **808. Staff Tuberculosis Screening.** recodified to 1702.

SECTION 800 – ADMISSION AND RETENTION recodified from former 102.K and amended for clarity.

Former **SECTION 900. STATEMENT OF RIGHTS OF ADULT DAY CARE PARTICIPANTS** recodified to 1000 for consistency with other Department regulations.

Former **901. Statement of Rights of Adult Day Care Participants**

Former 901.A recodified to 1001.A.

Former 901.B recodified to 1001.

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Former 901.C recodified to 901.C

SECTION 900 – PARTICIPANT CARE AND SERVICES added for consistency with other Department regulations.

901. Activities and Programs

901.A recodified from former 403.B and 501.A and amended for clarity.

901.B recodified from former 501.B,C and amended for clarity.

901.C recodified from former 501.D and amended for clarity.

901.D recodified from former 501.E and amended for clarity.

902. Daily Census. recodified from former 403.C and amended for clarity.

Former **SECTION 1000. DESIGN AND CONSTRUCTION** recodified to 1900 for consistency with other Department regulations.

Former **1001. General.** recodified to 1901.

Former **1002. Applicable Code.** recodified to 1902.

Former **1003. Submission of Plans and Specifications.** recodified to 1903.

Former **1004. Construction Inspections.** recodified to 1904.

SECTION 1000 – PARTICIPANT RIGHTS added for consistency with other Department regulations.

1001. Statement of Rights of Adult Day Care Participants. recodified for consistency with other Department regulations.

1001.A recodified from former 901.A.

1001.B recodified from former 901.B.

1001.C recodified from former 901.C.

1002. Discharge. added for consistency with other Department regulations.

Former SECTION 1100. FIRE PROTECTION EQUIPMENT AND SYSTEMS recodified for consistency with other Department regulations.

Former **1101. Alarms.** recodified for consistency with other Department regulations.

Former 1101.A recodified to 2001.A.

Former 1101.B recodified to 2001.B.

Former 1101.C recodified to 1505.

Former **1102. Gases.** Recodified to 2002 for consistency with other Department regulations.

SECTION 1100 – PARTICIPANT PHYSICAL EXAMINATION add for consistency with other Department regulations.

1100.A recodified from former 502.A and 502.C and amended for clarity and to adopt public comment.

1100.B recodified from former 502.B.

Former **SECTION 1200. PREVENTIVE MAINTENANCE EQUIPMENT AND UTILITIES** recodified for consistency with other Department regulations.

Former **1201. General.** recodified to 1600.

Former **1202. Signal System.** recodified to 2601.

Former **1203. Restrooms.** recodified to 2602.

Former **1204. Janitor's Closets.** recodified to 2603.

Former **1205. Storage Areas.** recodified to 2604.

Former **1206. Elevators.** recodified to 2605.

Former **1207. Telephone Service.** recodified to 2606.

Former **1208. Location.** recodified to 2607.

Former **1209. Furnishings/Equipment.** recodified to 2608.

Former **1210. Water Requirements.** recodified for consistency with other Department regulations.

Former 1210.A removed due to not being relevant.

Former 1210.B recodified to 1701.B.

Former 1210.C removed due to not being relevant.

Former 1210.D removed due to being unnecessary.

Former 1210.E recodified to 2300.A.

Former 1210.F recodified to 2300.B.

Former 1210.G removed due to not being relevant.

Former 1210.H recodified to 2300.C.

Former 1210.I removed due to not being relevant.

Former 1210.J recodified to 2300.D.

Former 1210.K recodified to 2300.E.

Former 1210.L recodified to 1304.C.

Former 1210.M. removed to reduce redundancy with other Department Department regulations.

Former **1211. Panelboards.** recodified to 2406.

Former **1212. Lighting.** recodified to 2609.

Former **1213. Heating, Ventilation, and Air Conditioning.** recodified for consistency with other Department regulations.

Former 1213.A recodified to 2500.A.

Former 1213.B recodified to 2500.C.

Former 1213.C recodified to 2500.E.

Former 1213.D recodified to 2500.F.

SECTION 1200 – MEDICATION MANAGEMENT added for consistency with other Department regulations.

1200.A recodified from former 502.D and amended for clarity, to meet DEA guidelines, and for consistency with other Department regulations.

1200.B added for consistency with other Department regulations.

1200.C recodified from former 502.E and amended for clarity.

Former **SECTION 1300. SEVERABILITY.** Recodified to 2700 for consistency with other Department regulations.

SECTION 1300 – MEAL SERVICE added for consistency with other Department regulations.

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1301. General. recodified from former 601 and amended for clarity.

1302. Meals and Special Diets. recodified from former 602 and amended for clarity and to remove unnecessary regulation.

1303. Menus. recodified from former 403.D and amended for clarity and to remove unnecessary regulation.

1304. Ice and Drinking Water. (II)

1304.A,B added for consistency with other regulation.

1304.C recodified from 1210.L.

Former **SECTION 1400. GENERAL** recodified to 2800 for consistency with other Department regulations.

SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS added for consistency with other Department regulations.

1401. Disaster Preparedness. recodified from former 702.A and amended for clarity consistency with other Department regulations.

1402. Continuity of Essential Services. added for consistency with other Department regulations.

SECTION 1500 – FIRE PREVENTION added for consistency with other Department regulations.

1501. Arrangements for Fire Department Response and Protection. recodified from former 702.A and amended for consistency with other Department regulations.

1502. Tests and Inspections. recodified from former 403.A and 1201 and amended for clarity.

1503. Fire Response Training. recodified from former 404.F.1 and 702.A and amended for clarity and for consistency with other Department regulations.

1504. Fire Drills. recodified from former 702.B and amended for clarity and for consistency with other Department regulations.

1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers. recodified from former 1101.C and amended for consistency with other Department regulations.

SECTION 1600 – MAINTENANCE added for consistency with other Department regulations.

1601. General Maintenance. recodified from former 1201 and 701 and amended for clarity.

1602. Preventive Maintenance of Emergency Equipment and Supplies added for consistency with other Department regulations.

1602.A added for consistency with other Department regulations.

1602.B recodified from former 1201.

SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT added for consistency with other Department regulations.

1701. Staff Practices. added for consistency with other Department regulations.

1701.A. recodified from former 801 and amended for clarity and to adhere to current guidance from the Centers for Disease Control and Prevention and for consistency with other Department regulations.

1701.B. recodified from former 1210B.

1702. Tuberculosis Risk Assessment and Screening. Recodified from former 807 and 808 and amended to adhere to current guidance from the Centers for Disease Control and Prevention and for consistency with other Department regulations.

1703. Linen and Laundry. recodified from former 802 and amended for clarity.

1704. Housekeeping. recodified from former 803 and amended for clarity.

1705. Sanitation. recodified from former 804 and amended for clarity.

1706. Outside Areas. recodified from former 805 and amended for clarity.

1707. Pets. recodified from former 806.

SECTION 1800 – [RESERVED] added for consistency with other Department regulations.

SECTION 1900 – DESIGN AND CONSTRUCTION added for consistency with other Department regulations.

1901. General. recodified from former 1001 and 501.H,G and amended for clarity.

1902. Applicable Code. recodified from former 1002 and amended for clarity.

1903. Submission of Plans and Specifications. recodified from former 1003 and amended for clarity.

1904. Construction Inspections. recodified from former 1004 and amended for clarity.

SECTION 2000 – FIRE PROTECTION, EQUIPMENT, AND LIFE SAFETY added for consistency with other Department regulations.

2001. Alarms. recodified from former 1101 and amended for clarity.

2002. Gases. recodified from former 1102 and amended for clarity.

SECTION 2100 – [RESERVED] added for consistency with other Department regulations.

SECTION 2200 – [RESERVED] added for consistency with other Department regulations.

SECTION 2300 – WATER SUPPLY added for consistency with other Department regulations.

2300.A recodified from former 1210.E.

2300.B recodified from former 1210.F.

2300.C recodified from former 1210.H.

2300.D recodified from former 1210.J and amended for clarity.

2300.E recodified from former 1210.K and amended for clarity.

SECTION 2400 – ELECTRICAL added for consistency with other Department regulations.

2401. General. added for consistency with other Department regulations.

2402. Lighting and Electrical Services. added for consistency with other Department regulations.

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2403. Ground Fault Protection. added for consistency with other Department regulations.

2404. Exit Signs. added for consistency with other Department regulations.

2405. Emergency Electric Service. added for consistency with other Department regulations.

2406. Electrical Panelboards. recodified from former 1211 and amended for clarity.

SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) added for consistency with other Department regulations.

2500.A recodified from former 403.H and amended for clarity.

2500.B added for consistency with other Department regulations.

2500.C recodified from former 1213.B and amended for clarity

2500.D added for consistency with other regulation.

2500.E recodified from former 1213.C and amended for clarity.

2500.F recodified from former 1213.D and amended for clarity.

SECTION 2600 – PHYSICAL PLANT added for consistency with other Department regulations.

2601. Signal System. recodified from former 1202 and amended for clarity.

2602. Bathrooms. recodified from former 1203 and 802.C and amended for clarity.

2603. Janitor's Closets. recodified from former 1204 and amended for clarity.

2604. Storage Areas. recodified from former 1205 and amended for clarity.

2605. Elevators. recodified from former 403.G and 1206 and amended for clarity.

2606. Telephone Service. recodified from former 1207 and amended for clarity.

2607. Location. recodified from former 1208 and amended for clarity.

2608. Furnishings/Equipment. recodified from former 1209 and amended for clarity.

2609. Lighting. recodified from former 1212 and amended for clarity.

SECTION 2700 – SEVERABILITY recodified from former 1300 for consistency with other Department regulations.

SECTION 2800 – GENERAL recodified from former 1300 for consistency with other Department regulations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; HealthRegComm@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 28, 2020, 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 November 12, 2020, 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>.

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

Purpose: The Department proposes amending R.61-75 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

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

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

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 in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other requirements for licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of these 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. There are no anticipated additional costs to the regulated community.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

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The proposed amendments to R.61-75 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for day care facilities for adults. There are no anticipated effects on the environment.

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

There is no anticipated detrimental effect on the environment. If the 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):

The Department of Health and Environmental Control is proposing amendments to R.61-75. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements for training staff members and new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other requirements for licensure.

Text:

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

Document No. 4984

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF ARCHITECTURAL EXAMINERS
CHAPTER 11**

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

- 11-1. Definitions.
- 11-5. Applications and Fees.
- 11-6. Registration by Examination.
- 11-8.1. Continuing Education.
- 11-11. Seals.
- 11-12. Code of Professional Ethics.

Preamble:

The South Carolina Board of Architectural Examiners proposes to amend its regulations to: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals and add language regarding minimum construction phase services in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

Section-by-Section Discussion

- 11-1. No change.

- 11-1(1). Strike IDP and replace with AXP; strike Intern Development Program and replace with Architectural Experience Program.
- 11-1(2)-(6). No change.
- 11-2. No change.
- 11-3. No change.
- 11-4. No change.
- 11-5A. Add that all online applications must be accompanied by the application fee in the form of an online payment on the Board website.
- 11-5B. No change.
- 11-6A. Add “of the South Carolina Code of Laws” after legal citation; replace Intern Development Program (IDP) with Architectural Experience Program (AXP).
- 11-6A(1). No change.
- 11-6A(2). Replace Intern Development Program (IDP) with Architectural Experience Program (AXP).
- 11-6A(3). No change.
- 11-6(B). Add “of the South Carolina Code of Laws” after legal citation.
- 11-7. No change.
- 11-8. No change.
- 11-8.1A. No change.
- 11-8.1B(1)-(3). No change.
- 11-8.1B(4). Add “of the South Carolina Code of Laws” after legal citation.
- 11-8.1C(1). Replace 12 with 24 CE hours and replace calendar year with biennial licensure period.
- 11-8.1C(2). Strike “2 calendar years preceding the calendar year in which the license is set to expire” with “prior biennial licensure period.”
- 11-8.1C(3)-(4). No change.
- 11-8.1D. No change.
- 11-9. No change.
- 11-10. No change.
- 11-11A. Change “responsible architect” to “architect in responsible charge.” Add “and dated” to “signed.”
- 11-11B. No change.
- 11-11C. No change.
- 11-11D. No change.
- 11-11E. No change.
- 11-11E(1). Strike “professional” and add “architect in responsible charge.”
- 11-11E(2). Add “having been signed and dated” to verifiable.
- 11-11E(3). Strike “and sole” to direct control.
- 11-11E(4). Delete.
- 11-11E(5). Delete.
- 11-11E(6). Delete.
- 11-11E(7). Renumber as (4).
- 11-11E(8). Renumber as (5).
- 11-11F (1)-(3). New section added: Minimum Construction Phase Services.
- 11-12. No change.
- 11-12 A(1). Delete.
- 11-12A(2)-(5). Renumber.
- 11-12B(1)-(3). No changes.
- 11-12B(4)-(5). Delete.
- 11-12B(6)-(7). Renumber.
- 11-12C-E. No changes.
- 11-13. No change.
- 11-14. No change.

A Notice of Drafting was published in the *State Register* on February 28, 2020.

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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 October 12, 2020. Written comments may be directed to Lenora Addison-Miles, Administrator, Board of Architectural Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211, no later than 5:00 p.m., September 28, 2020. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

This regulation is amended to: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals and add language regarding minimum construction phase services in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals and add language regarding minimum construction phase services in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

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

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

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

The proposed regulation is both needed and reasonable as it will provide necessary updates to the regulation to comply with existing law and procedures. The proposed regulations will: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals and add language regarding minimum construction phase services in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulation will: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals and add language regarding minimum construction phase services in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

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. 4985
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY
CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-50(D), 40-1-70, and 40-15-40(G)

39-5. Registration of Licenses or Certificates

39-6. Annual Election of the Board.

39-9. Use of Lasers in a Dental Setting. (New)

Preamble:

The South Carolina Board of Dentistry proposes to amend: R.39-5(F)(1) regarding obtaining continuing education online; R.39-5(F)(3) regarding continuing education requirements related to CPR; and R.39-6 regarding elections. The Board further proposes to add a regulation regarding the use of lasers in a dental setting.

Section-by-Section Discussion

39-59A)-(E). No change.

39-5(F). No change.

39-5(F)(1). Add that 50% of required CE hours must be obtained via live, in-person attendance. Interactive webinars are considered live or in-person CE hours. The remaining 50% of the required CE hours can be earned via online computer seminars.

39-5(F)(1)(a)-(b). No change.

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39-5(F)(2). No change.

39-5(F)(3). Strike three and replace with two years of licensure regarding the length of time after licensure that a dentist or dental hygienist must complete an approved CPR course.

39-5(F)(4)-(8). No change.

39-6. Strike "Notice of the annual election of the Board will be mailed in March to each dentist qualified to vote." Add "Dentists qualified to vote in accordance with Board records will be noticed in March of the upcoming Congressionally-assigned board seat elections." Strike "Ballots and return envelopes shall be mailed to every dentist qualified to vote in the election." Move to the end of the section, "Annual elections for officers of the Board shall be conducted by the Board at the first meeting held in each calendar year." Strike "Notice of the election of the dental hygiene member of the Board will be mailed in March of the appropriate year (once every six years) to each dental hygienist qualified to vote according to the records of the Board." Add "Dental hygienist qualified to vote in accordance with the Board's records will be noticed in March of the appropriate year (once every six years) of the board seat election." Strike "Ballots and return envelopes shall be mailed to every dental hygienist qualified to vote in the election."

39-9. New section entitled "Use of Lasers in a Dental Setting".

39-9(A). Exclude use of non-adjustable laser units used for purposes of diagnoses and curing.

39-9(B). Establish that only a dentist may use a laser for removal of hard or soft tissue in the treatment of a dental patient.

39-9(C). Establish requirements for use by dental hygienist.

39-9(D)(1)-(3). Establish requirements for use of a laser. Establish exemption for training for licensees with three years of experience.

39-9(E). Establish documentation requirements.

A Notice of Drafting was published in the *State Register* on July 24, 2020.

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 October 13, 2020. Written comments may be directed to Meredith Buttler, Administrator, Board of Dentistry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., on September 28, 2020. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The Dental Practice Act requires the Board to adopt rules and regulations for the practice of dentistry, and specifically for the performance of dental technological work. Therefore, the Board of Dentistry proposes to amend its regulations to address the use of lasers. Additionally, the South Carolina Board of Dentistry proposes to amend: R.39-5(F)(1) regarding obtaining continuing education online; R.39-5(F)(3) regarding continuing education requirements related to CPR; and R.39-6 regarding elections.

DESCRIPTION OF REGULATION:

The South Carolina Board of Dentistry proposes to amend: R.39-5(F)(1) regarding obtaining continuing education online; R.39-5(F)(3) regarding continuing education requirements related to CPR; and R.39-6 regarding elections. The Board also proposes to establish standards for the use of lasers in a dental setting.

Legal Authority: 1976 Code Sections 40-1-50(D), 40-1-70, and 40-15-40(G).

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

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

The Dental Practice Act requires the Board to adopt rules and regulations for the practice of dentistry, and specifically for the performance of dental technological work. Therefore, the Board of Dentistry proposes to amend its regulations to address the use of lasers. The South Carolina Board of Dentistry also proposes to amend: R.39-5(F)(1) regarding obtaining continuing education online; R.39-5(F)(3) regarding continuing education requirements related to CPR; and R.39-6 regarding elections.

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 South Carolina Board of Dentistry proposes to amend: R.39-5(F)(1) regarding obtaining continuing education online; R.39-5(F)(3) regarding continuing education requirements related to CPR; and R.39-6 regarding elections. The Board also proposes to establish standards for the use of lasers in a dental setting.

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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93-80. Administrator-in-Training Program Requirements.

Preamble:

The South Carolina Board of Long Term Health Care Administrators proposes to amend R.93-80 to allow Administrator-in-Training (AIT) preceptors to supervise up to two AIT candidates concurrently.

Section-by-Section Discussion

93.80A – E. No change.

93.80F. Change “A preceptor shall supervise no more than one AIT concurrently” to “A preceptor shall supervise up to two AIT candidates concurrently.”

93.80G – L. No change.

A Notice of Drafting was published in the *State Register* on February 28, 2020.

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 October 20, 2020. Written comments may be directed to Meredith Buttler, Administrator, Board of Long Term Health Care Administrators, 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 September 28, 2020. 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:

The South Carolina Board of Long Term Health Care Administrators proposes to amend R.93-80 to allow Administrator-in-Training (AIT) preceptors to supervise up to two AIT candidates concurrently. Presently, the regulation only allows a preceptor to supervise one AIT candidate. Allowing for supervision of two candidates is necessary to encourage more applicants to enter the profession as the long-term health care industry is growing exponentially and there is a shortage of qualified applicants to manage the facilities.

DESCRIPTION OF REGULATION:

Purpose: The proposed regulation would allow Administrator-in-Training (AIT) preceptors to supervise up to two AIT candidates concurrently, amending R.93-80F.

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

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 regulation is both reasonable and necessary in that it ensures that AIT candidates are appropriately supervised but also allows preceptors to supervise more than one candidate at a time.

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 South Carolina Board of Long Term Health Care Administrators proposes to amend R.93-80 to allow Administrator-in-Training (AIT) preceptors to supervise up to two AIT candidates concurrently. This will both ensure adequate supervision and additional opportunities for qualified individuals to receive the training necessary to enter the profession.

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. 4986

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS**

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10, and 40-47-110

81-91. Election Procedures for the State Board of Medical Examiners and the Medical Disciplinary Commission.

Preamble:

The South Carolina Board of Medical Examiners proposes to amend R.81-91 regarding election procedures for the Board of Medical Examiners and the Medical Disciplinary Commission.

Section-by-Section Discussion

81-91. Replace “mailed” with “provided” regarding the Notice of Election.

Replace fifty (50) with fifteen (15) regarding the number of written petitions that must be submitted by physicians wishing to offer their candidacy for the Board.

Strike “and return envelopes” regarding ballots mailed, and replace “mailed” with “provided” regarding ballots.

Replace “ballots” with “votes” regarding the candidate’s receipt of the same to be eligible to be submitted to the Governor as a nominee.

Replace “return” with “submit” regarding the method of returning ballots to Board.

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Add "For purposes of this Section, the notice of election and all other notices required herein may be sent to the physician's email address on file with the Board. Physicians eligible to vote in the election may submit their ballots electronically. Those who wish to submit a paper ballot may requires one from the Board."

Strike the section related to election of Medical Disciplinary Commission.

A Notice of Drafting was published in the *State Register* on February 28, 2020.

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 October 27, 2020. Written comments may be directed to Sheridan Spoon, Administrator, Board of Medical Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11289, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., September 28, 2020. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to make changes to the election procedures for the Board of Medical Examiners and the Medical Disciplinary Commission. Specifically, the proposed regulation changes would permit electronic voting, which would save both time and money for the State. The regulation would, however, preserve the ability to vote by paper if an applicant wished to do so. The proposed regulation would further replace fifty (50) with fifteen (15) regarding the number of written petitions that must be submitted by physicians wishing to offer their candidacy for the Board. The proposed regulation changes would also strike the language regarding the election of members to the Medical Disciplinary Commission (MDC) as it is inconsistent with S.C. Code Section 40-47-11 which provides the physician members of the Board appoint Commission members; there is no reference to an election.

DESCRIPTION OF REGULATION:

Purpose: The South Carolina Board of Medical Examiners proposes to amend R.81-91 regarding election procedures for the Board of Medical Examiners and the Medical Disciplinary Commission. Specifically, the proposed regulation changes would permit, but not require, electronic voting, which would save both time and money for the State. The proposed regulation would further replace fifty (50) with fifteen (15) regarding the number of written petitions that must be submitted by physicians wishing to offer their candidacy for the Board. The proposed regulation changes would also strike the language regarding the election of members to the Medical Disciplinary Commission (MDC) as it is inconsistent with S.C. Code Section 40-47-11 which provides the physician members of the Board appoint Commission members; there is no reference to an election.

Legal Authority: 1976 Code Sections 40-1-70, 40-47-10, and 40-47-110.

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 South Carolina Board of Medical Examiners proposes to amend election procedures for the Board of Medical Examiners and the Medical Disciplinary Commission set forth in R.81-91. Specifically, the proposed

regulation changes would permit, but not require, electronic voting, which would save both time and money for the State. The proposed regulation would further replace fifty (50) with fifteen (15) regarding the number of written petitions that must be submitted by physicians wishing to offer their candidacy for the Board. The proposed regulation changes would also strike the language regarding the election of members to the Medical Disciplinary Commission (MDC) as it is inconsistent with S.C. Code Section 40-47-11 which provides the physician members of the Board appoint Commission members; there is no reference to an election.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations. This would result in a cost-savings to the State.

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 South Carolina Board of Medical Examiners proposes to amend R.81-91 regarding election procedures for the Board of Medical Examiners and the Medical Disciplinary Commission. Specifically, the proposed regulation changes would permit, but not require, electronic voting, which would save both time and money for the State. The proposed regulation would further replace fifty (50) with fifteen (15) regarding the number of written petitions that must be submitted by physicians wishing to offer their candidacy for the Board. The proposed regulation changes would also strike the language regarding the election of members to the Medical Disciplinary Commission (MDC) members as it is inconsistent with S.C. Code Section 40-47-11 which provides the physician members of the Board appoint Commission members; there is no reference to an election.

Text:

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

Document No. 4988
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: 1976 Code Sections 58-3-60, 58-3-140, and 58-41-20

103-811.5. Role of the Qualified Independent Third-Party Consultant and Expert and the Commissioners' Reliance on the Contents of the Qualified Independent Third-Party Consultant and Expert's Report. (New)

Preamble:

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The Public Service Commission of South Carolina proposes to add a regulation which provides a process for the Commission to engage qualified independent third-party consultants and experts. The proposed regulation is necessary to provide guidance as to the role and responsibilities of a qualified independent third-party consultant and expert and the Commissioners' reliance on the qualified independent third-party consultant and expert's report. The Notice of Drafting regarding this regulation was published on December 27, 2019, in the *State Register*, Volume 43, Issue 12.

Section-by-Section Discussion

103-811.5. This section, when it becomes effective, addresses a qualified independent third-party consultant and expert's role and responsibilities in cases before the Commission and the Commissioners' reliance on the qualified independent third-party consultant and expert's report.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Suite 100, Columbia, South Carolina 29210. Please reference Docket Number 2019-362-A. To be considered, comments must be received no later than 4:45 p.m. on Friday, October 2, 2020. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a virtual public hearing to be conducted by the Public Service Commission on Wednesday, November 4, 2020, at 10:00 a.m.

Preliminary Fiscal Impact Statement:

The Commission anticipates utilizing its existing resources to implement the proposed regulation. Other than the costs the Commission will incur to retain and compensate a qualified independent third-party consultant, the Commission anticipates utilizing its existing resources to execute or effectuate the provisions of the proposed regulation.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

103-811.5. Role of the Qualified Independent Third-Party Consultant and Expert and the Commissioners' Reliance on the Contents of the Qualified Independent Third-Party Consultant and Expert's Report.

Purpose: Act 62 of 2019, or the South Carolina Energy Freedom Act, was signed by Governor Henry McMaster on May 16, 2019. S.C. Code Ann. Section 58-41-20 (I) states, "The commission is authorized to employ, through contract or otherwise, third-party consultants and experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and

conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third-party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted

during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third-party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. The commission and the Office of Regulatory Staff may not hire the same third-party consultant or expert in the same proceeding or to address the same or similar issues in different proceedings.”

The proposed regulation provides, in part, further guidance on the consultant and expert’s role to the Commission; the consultant and expert’s acknowledgement of ex parte communications law; the consultant and expert’s proposed procedural schedule for the timing of the development and issuance of its report; and the weight each Commissioner may give the consultant and expert’s report.

Legal Authority: S.C. Code Ann. Sections 58-3-60, 58-3-140, and 58-41-20.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*. The Commission, upon the effective date of the proposed regulation, will enforce the provisions of it.

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

The proposed Regulation 103-811.5 is needed and is reasonable as it provides directions for all stakeholders related to the consultant and expert’s role in a pending docket and provides pertinent procedural guidance for issues such as timing related to the issuance of the consultant and expert’s report and the potential substance of the consultant and expert’s report.

DETERMINATION OF COSTS AND BENEFITS:

The Commission opines that it can absorb the administrative process expenditures related to accomplishing the provisions of the proposed regulation. The Commission initially expended \$175,000 to execute its first qualified independent third-party consultant and expert contract hired pursuant to S.C. Code Ann. Section 58-41-20 (I) which requires the Commission to engage such consultants and experts.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

Statement of Rationale:

The purpose for Regulation 103-811.5 is to document the role of qualified independent third-party consultants and experts and the Commissioners’ reliance on the contents of the qualified independent third-party consultant and expert’s report. Adoption of this Regulation will result in a regulation which outlines the role of qualified

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independent third-party consultants and experts and how the Commission utilizes the qualified independent third-party's consultant and expert's report. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Filed: August 14, 2020 12:27pm

Document No. 4973
COMMISSION ON HIGHER EDUCATION
 CHAPTER 62
 Statutory Authority: 1976 Code Section 59-149-10

62-1200.1 - 62-1200.75. Legislative Incentives for Future Excellence (LIFE) Scholarship Program and Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement.

Emergency Situation:

During Spring 2020 the United States experienced the beginning of the COVID-19 pandemic. Because of this pandemic, South Carolina, along with the rest of the nation, saw cancellations of various educational testing opportunities for students. This included the cancellation of standardized tests such as the SAT and ACT examinations. In addition, many students will need to sit out the upcoming Fall 2020 academic semester for various COVID-19 related reasons. This emergency regulation seeks to assist affected high school students by providing them with an opportunity to take the ACT test examination through the July 2020, and to use the earned scores to meet the qualifications for state scholarships. In addition, the emergency regulation also provides students with the opportunity to take a break in enrollment during the Fall 2020 academic term and still maintain their remaining terms of LIFE Scholarship and LIFE Scholarship Enhancement eligibility. CHE is refiling the emergency regulation due to the continuation of exigent circumstances.

Text:

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62-1200.1. Purpose of the LIFE Scholarship Program.

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Pursuant to Act 418, which was initially established in 1998 as Title 59 of the 1976 code and amended by Act 162 during the 2005 legislative session, the Commission on Higher Education shall promulgate regulation and establish procedures for administration of the LIFE Scholarship Program. The General Assembly established the LIFE Scholarship Program in order to increase the access to higher education, improve the employability of South Carolina's students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time.

With Act 115, which was established in 2007 as Title 59 of the 1976 code during the 2007 legislative session, the General Assembly established the LIFE Scholarship Enhancement in order to increase the number of students in the State majoring in mathematics and science and to increase the access to higher education, improve the employability of South Carolina's students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time. Students enrolled at two-year institutions are not eligible to receive a LIFE Scholarship Enhancement. In order to receive a LIFE Scholarship Enhancement, all students must qualify for the LIFE Scholarship as stipulated herein.

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

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

For the Fall 2020 term, students may take a break in enrollment. Students who break enrollment for the Fall 2020 term may not attempt college coursework or earn college credit during this term. Students who are eligible to receive the LIFE Scholarship for the 2020-21 academic year, but who break enrollment for the Fall 2020 term may receive the maximum award amount allotted for a semester upon return to school in the Spring 2021 term. Students who take a break in enrollment during Fall 2020 will be expected to meet all scholarship requirements, including credit hour requirements, to be eligible for the award in 2021-22.

62-1200.5. Program Definitions.

A. "Academic year" is defined as the twelve month period during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year will consist of the fall, spring and summer terms (or its equivalent).

B. A student who has earned a GED diploma or SC High School Diploma through Adult Education without a cumulative GPA may be eligible to earn the LIFE Scholarship at the end of the first academic year of a non-GED program. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 "LIFE GPA" at the end of the first academic year. To qualify for subsequent years, the student must meet all eligibility requirements as stated in Section 62-1200.15., Continued Eligibility section of the LIFE Scholarship and LIFE Scholarship Enhancement.

C. An "approved five-year bachelor's degree program" shall mean a five-year bachelor's program as defined and approved by the Commission on Higher Education to receive the LIFE Scholarship for a maximum of ten terms at the same eligible institution in order to complete the requirements for a bachelor's degree. An approved

five-year bachelor's degree program does not include inter-institutional and cooperative "3+2" programs (normally in a science degree field and an engineering program).

D. "Annual credit hour requirement" shall be defined as an average of thirty (30) credit hours earned at the end of the academic year based on initial college enrollment at all eligible institutions attended, excluding hours for remedial, continuing education, and non-degree coursework. Credit hours earned before high school graduation, including Advanced Placement (AP) credit hours, International Baccalaureate (IB) credit hours, exempted credit hours as well as credit hours earned on active duty, must be placed on the student's official college transcript by the institution at which they are earned, and must be counted toward the annual credit hour requirement.

E. "Associate's degree program" is defined as a two-year technical or occupational program, or at least a two-year program that is acceptable for full credit towards a bachelor's degree as defined by the U.S. Department of Education.

F. "Attempted credit hours" shall be defined as courses in which a student earns a grade and is included in the grade point calculation for that institution. Eligible credit hours that do not transfer must also be included. Credit hours earned through dual-enrollment prior to high school graduation must be included in the LIFE GPA. Exempted credit hours, Advanced Placement (AP), International Baccalaureate (IB), College Level Examination Program (CLEP), remedial/developmental courses, non-degree credit courses for an associate's degree or higher, Pass/Fail, Satisfactory/Unsatisfactory and non-penalty withdrawal credit hours are excluded from the "attempted credit hours." If a student transfers, refer to the institution's grading policy where the credit hours were earned. Any credit hours attempted or earned before high school graduation, hours exempted by examination, Advanced Placement (AP) or International Baccalaureate (IB) credit hours do not count against the terms of eligibility.

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

H. "Book allowance" shall mean funds that may be applied to the student's account for expenses towards the cost-of-attendance including the cost of textbooks.

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

J. "Cost-of-attendance" as defined by Title IV Regulations and may include tuition, fees, living expenses, and other expenses such as costs related to disability or dependent care.

K. "Cost-of-tuition" shall mean the amount charged for enrolling in credit hours of instruction and mandatory fees assessed to all students. Other fees, charges, or cost of textbooks cannot be included.

L. "Declared major" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program in which a student is enrolled as a full-time, degree-seeking student. The student must meet all requirements as stipulated by the policies established by the institution and the academic department to be enrolled as a declared major in an eligible program. Students cannot take courses related to a specific program without meeting institutional and departmental policies and be considered as a declared major. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Eligible programs are those listed as such on the Commission's website.

M. "Degree-seeking student" is defined as any full-time student enrolled in an eligible institution which leads to the first one-year certificate, first two-year program or associate's degree, or first bachelor's or program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a

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graduate degree. Upon completion of the first one-year certificate, first two-year program or associate's degree, or first bachelor's or program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, the student cannot use scholarship funds to pursue a program in the same or preceding level. Students are eligible to receive the Scholarship for a maximum of eight terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students must be enrolled in an undergraduate degree program in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, the students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have been awarded a bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in a CHE approved five-year bachelor's degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

N. "Eligible institution" shall be defined, solely for the purposes of the annual credit hour requirement and the LIFE GPA calculation, as an accredited public or independent postsecondary, degree-granting institution located in-state or out-of-state. The institution must be accredited by an agency recognized by the U.S. Department of Education for participation in federally funded financial aid programs. This list may be found on the US Department of Education's website.

O. "Eligible program of study" is defined as a program of study leading to: 1) at least a one-year educational program that leads to a first certificate or other recognized educational credential (e.g., diploma); 2) the first associate's degree; 3) at least a two-year program that is acceptable for full credit towards a bachelor's degree; 4) the first bachelor's degree; or 5) a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree. Students are eligible to receive the LIFE Scholarship for a maximum of eight terms (or its equivalent) towards an undergraduate degree as long as all eligibility requirements are met and the program is approved by the Commission on Higher Education. Students who have been awarded a bachelor's or graduate degree are not eligible for Scholarship or Enhancement funding. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

P. "Eligible degree program/Qualifying degree program" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program in mathematics or science as approved by the SC Commission on Higher Education. These programs shall include science and mathematics disciplines, computer science or informational technology, engineering, science education, math education and health care and related disciplines including medicine and dentistry as defined by the Commission on Higher Education. Enrollment in a minor does not meet the requirement of an eligible degree program for a LIFE Scholarship Enhancement. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Eligible programs must be approved by the South Carolina Commission on Higher Education. Eligible/Qualifying programs are those listed as such on the Commission's website.

Q. "Felonies" shall be defined as a crimes classified under State statute (16-1-10) and typically require imprisonment for more than one year.

R. "Fifth year/senior year" shall mean any student who is enrolled in his or her ninth or tenth semester of full-time, undergraduate coursework in an approved five-year program following high school graduation. The

student is in his/her fifth year of ~~consecutive~~, full-time college enrollment based on the student's initial date of college enrollment after graduation from high school.

S. "First year student/Freshman" is defined as any student who is enrolled as a first year student in his or her first or second semester of undergraduate coursework following high school graduation.

T. "Fourth year/senior year" shall mean seventh or eighth semester of full-time, undergraduate coursework following high school graduation. The student is in his/her fourth year of ~~consecutive~~, full-time college enrollment based on the student's initial date of college enrollment after graduation from high school.

U. "Full-time student" shall mean a student who has matriculated into an eligible program of study and who enrolls full-time, usually fifteen credit hours for fall and spring terms or twelve credit hours for fall, eight credit hours for winter, and twelve credit hours for spring trimester terms. The student must earn an average of thirty credit hours per academic year to receive a LIFE Scholarship. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time at the home institution as stipulated by Title IV Regulations, except that credit hours may not include remedial/developmental, continuing education, and non-degree credit courses for an associate's degree or higher.

V. "General Educational Development (GED) Diploma" is defined as a GED high school diploma that was completed in South Carolina or outside of the state while the student was a dependent of a legal resident of South Carolina who had custody or paid child support and college expenses of the dependent GED diploma student. A student who earns a GED diploma cannot receive a LIFE Scholarship during his/her initial year (or equivalent) of college enrollment but may earn the scholarship in subsequent years.

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

X. "Home institution" shall mean the institution where the student is currently enrolled as a degree-seeking student and may be eligible for financial aid at the same institution.

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

Z. "Ineligible degree program" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program that is not included on the Commission's posted list of approved eligible programs and assigned a CIP code.

AA. "Initial college enrollment" shall mean the first time the student enrolls into a postsecondary degree-granting institution after high school graduation, completion of a GED/Adult Education Program or completion of an approved home school program. The terms of eligibility and the annual credit hour requirement are based upon initial college enrollment and continuous enrollment with the exception of students who wish to

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break enrollment for the Fall 2020 term, only. This means that students must adhere to the 30 credit hour requirement even if they have a break in enrollment. Any break in enrollment (excluding summer) will also count against the terms of eligibility, with the exception of students who wish to break enrollment for the Fall 2020 term, only. Students who break enrollment for the Fall 2020 term may not attempt college coursework or earn college credit during this term. Students who are eligible to receive the LIFE Scholarship for the 2020-21 academic year, but who break enrollment for the Fall 2020 term may receive the maximum award amount allotted for a semester upon return to school in the Spring 2021 term. Students who take a break in enrollment during Fall 2020 will be expected to meet all scholarship requirements, including credit hour requirements, to be eligible for the award in 2021-22.

BB. “LIFE GPA” shall be defined as the cumulative grade point average calculation that includes credit hours and grades earned at all eligible institutions based on a 4.0 scale. The LIFE grade point average must not include attempted credit hours earned for continuing education courses, non-degree credit courses for an associate’s degree or higher and remedial/developmental courses. See Section 62-900.55 for the steps to calculate the “LIFE GPA.”

CC. “LIFE Scholarship recipient” is defined as a student who meets all of the eligibility requirements to receive a LIFE Scholarship and is awarded LIFE Scholarship funds during a given academic year. Students who meet the eligibility requirements for a LIFE Scholarship but do not receive any LIFE Scholarship funds, due to the cost of attendance being met by other sources of financial aid, do not meet the definition of a LIFE Scholarship recipient.

DD. “Military mobilization” is defined as a situation in which the U.S. Department of Defense orders members of the United States Armed Forces to active duty away from their normal duty assignment during a time of war or national emergency.

EE. “Misdemeanor offenses” shall be defined as a crimes classified under State statute (16-1-100) which are typically punishable by fine or imprisonment for less than one year. A complete listing is located in title 16 of State statute. Examples of alcohol and drug misdemeanors in South Carolina include but are not limited to possession of alcohol under the age of 21, possession of marijuana/illegal drugs, open-container, transfer of alcohol to person under 21, false information as to age (fake ID), etc.

FF. “Non-degree credit courses” shall be defined as courses that count towards graduation in a certificate or diploma program only. Non-degree credit courses must not be used in the “LIFE GPA” calculation or towards the annual credit hour requirement for an associate’s degree or higher.

GG. A “one-year educational program” is defined as an undergraduate program of study leading to recognized credentials (e.g., certificates or diplomas), as defined by the U.S. Department of Education for participation in federally funded financial aid programs and which prepares students for gainful employment in recognized occupations.

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

II. “Program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree”, which will be the student’s first academic degree awarded. Students are eligible to receive the LIFE Scholarship for a maximum of eight terms (or its equivalent) and the LIFE Scholarship Enhancement for a maximum of six terms (or its equivalent) as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students who have been awarded a bachelor’s or graduate degree are not eligible for Scholarship funding. Students must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master’s of Science in Physician Assistant Studies Program, the Master’s of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

JJ. “Public institutions” are institutions of higher learning as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates “public higher education shall mean any state supported postsecondary educational institution and shall include technical and comprehensive educational institutions.”

KK. “Remedial/developmental coursework” shall mean sub-collegiate level preparatory courses in English, mathematics, reading and any courses classified as remedial by the institution where the course is taken.

LL. “Satisfactory academic progress” shall be defined as the academic progress in the declared major as required by the institution and academic department in which the student is enrolled as a full-time, degree-seeking student. The student must meet all requirements for satisfactory academic progress towards completion of the declared major as established by the policies of both the institution and academic department in which the student is enrolled to meet the requirements of satisfactory academic progress.

MM. “Second year/sophomore year” shall mean any student who is enrolled in his or her third or fourth semester of full-time, undergraduate coursework following high school graduation. The student is in his/her second year of ~~consecutive~~, full-time college enrollment based on the student’s initial date of college enrollment after graduation from high school.

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

OO. “Third year/junior year” shall mean the fifth or sixth semester of full-time, undergraduate coursework following high school graduation. The student is enrolled in his/her third year of ~~consecutive~~, full-time enrollment based on the student’s initial date of college enrollment after graduation from high school.

PP. “3 plus 2 programs” is defined, for the purposes of the LIFE Scholarship Enhancement, as a program (typically an engineering major) in which a student completes three years of a baccalaureate program at one institution, at which time the student transfers to a second institution and completes the remaining two years of an undergraduate degree program. When the student completes the fourth year of enrollment, credit hours are transferred back to the initial institution, which confers the first baccalaureate degree (e.g., physics) using articulated credits from the second institution. At the end of the second year of enrollment at the second institution, the student receives the second baccalaureate degree (e.g., engineering). 3 plus 2 programs for the purposes of receiving the LIFE Scholarship Enhancement shall be defined and approved by the SC Commission on Higher Education. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Enrollment in a minor does not meet the requirement of an eligible degree program for a LIFE Scholarship Enhancement award.

QQ. “Transfer student” shall be defined as a student who has changed enrollment from one institution to a SC public or independent institution.

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RR. "Substantially deviates" shall be defined, for the purposes of reviewing out-of-state preparatory high school grading scales, as being less than equivalent to the 2007 Uniform Grading Policy.

SS. "Preparatory high school" (out-of-state) is defined as a school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

TT. "Lawful Presence" is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

UU. "Continuously enrolled" is defined as enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions. Students who attend summer terms or are selected for military mobilization are considered continuously enrolled. Students who are enrolled in internships, cooperative work programs, travel study programs, or National or International Exchange Programs that are approved by the home institution are considered continuously enrolled. For the Fall 2020 term, students will not be required to maintain continuous enrollment. Students who break enrollment for the Fall 2020 term may not attempt college coursework or earn college credit during this term. Students who are eligible to receive the LIFE Scholarship for the 2020-21 academic year, but who break enrollment for the Fall 2020 term may receive the maximum award amount allotted for a semester upon return to school in the Spring 2021 term. Students who take a break in enrollment during Fall 2020 will be expected to meet all scholarship requirements, including credit hour requirements, to be eligible for the award in 2021-22.

62-1200.10. Student Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. To be eligible for a LIFE Scholarship, students must:

1. Be a U.S. citizen or a legal permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence has been verified at the time of enrollment at the institution; and

2. Be a South Carolina resident for in-state purposes at the time of high school graduation and at the time of enrollment at the institution, as set forth by Section 59-112-10, and be either a member of a class graduating from a high school located in this State, or a student who has successfully completed at least three of the final four years of high school within this State, or a home school student who has successfully completed a high school home school program in this State in the manner required by law, or a student graduating from a preparatory high school outside this State, while a dependent of a parent or guardian who is a legal resident of this State and has custody of the dependent according to State Statute, Section 59-149-50A or a student whose parent or guardian has served in or has retired from one of the United States Armed Forces within the last four years, paid income taxes in this State for a majority of the years of service, and is a resident of this State. A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;

3. Meet two of the following three criteria if a first-time entering freshman at an eligible four-year institution:

a. Earn a cumulative 3.0 grade point average (GPA) based on the Uniform Grading Policy (UGP) upon high school graduation. No other grading policy will be allowed to qualify for the LIFE Scholarship. Grade point averages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. Institutions shall use the final GPA as reported on the official transcript.

b. Score at least an 1100 on the Scholastic Assessment Test (SAT) or an equivalent ACT score of 24.

Test scores will be accepted through the ~~June~~ July national test administration of the SAT and ACT during the year of high school graduation. The student must use the highest SAT Math score combined with the highest SAT Critical Reading score (formerly known as the Verbal score). It is permissible to select scores from different test administrations in order to obtain the qualifying composite score. Students cannot use the Writing subsection score to obtain the qualifying composite score. The composite ACT score must be based upon one test administration.

c. Rank in the top thirty percent of the graduating class consisting of high school diploma candidates only. The rank must also be based on the UGP only. Ranking percentages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who has a class rank of 13 of 43 ($13/43 \times 100 = 30.23\%$) will not rank in the top thirty percent of the class since 30.23% is not within thirty percent. To determine the top thirty percent for graduating classes with three or less students, the student who is ranked number one in the class would be considered in the top thirty percent for LIFE Scholarship eligibility. Institutions shall use the final ranking as reported by the high school on the official transcript. If a student is a member of an approved home school association that ranks, a ranking report must be attached to the official transcript. High schools or home school associations that do not rank as a policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and that do not convert the graduating class to the current SC UGP to determine class rank, must use the GPA and SAT or ACT criteria when attempting to meet the academic requirements for the LIFE Scholarship. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

d. For the purposes of meeting the rank criterion, the existing high school rank of a South Carolina resident attending an out-of-state high school may be used provided it is calculated pursuant to a state-approved, standardized grading scale at the respective out-of-state high school. If the eligible South Carolina institution determines that a state-approved standardized grading scale substantially deviates from the S.C. Uniform Grading Policy (UGP), the institution must submit the grading scale to CHE for further review. If CHE confirms the out-of-state grading scale substantially deviates from the S.C. UGP, the state-approved, standardized grading scale shall not be used to meet the eligibility requirements for the LIFE Scholarship. When converting scores to the SC UGP, weighting must adhere to the SC UGP (i.e. honors no more than .50 and AP/IB no more than 1.0). In addition, scores/grades must correspond to the SC UGP. For example, if a student earned a 90 in an honors class, the conversion of the score/grade must be equivalent to the points assigned according to the current SC UGP. The guidance counselor from the out-of-state preparatory school also has the option of converting the cumulative GPAs of all students in the applicant's class to the S.C. UGP to determine if the student ranks within the top thirty percent of the class. To be considered equivalent to the SC UGP, the out-of-state school's grading scale must adhere to the following minimum requirements:

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

(2) To be equivalent to an "A" letter grade, the numerical average must be ≥ 93 ; to be equivalent to a "B" letter grade the numerical average must be between 85 and 92; to be equivalent to a "C" letter grade the numerical average must be between 77 and 84; to be equivalent to a "D" letter grade the numerical average must be between 70 and 76; and to be equivalent to a "F" letter grade the numerical average must be between 62 and 69 (if a course with a numerical average of < 62 is considered passing by the high school the student earned the grade, then a 73 numerical average should be given);

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

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

(5) If no numerical average is available, all letter grades must be converted to the equivalent numerical average based on the following: all "A" letter grades must be converted to a 96 numerical average, all "B" letter grades must be converted to a 88 numerical average, all "C" letter grades must be converted to a 80 numerical average, all "D" letter grades must be converted to a 73 numerical average, and all "F" numerical averages must be converted a 61 numerical average.

4. Earn a cumulative 3.0 grade point average (GPA) on the Uniform Grading Policy upon high school graduation and score at least an 1100 on the Scholastic Assessment Test (SAT I) or an equivalent ACT score of 24 if a first-time entering freshman graduates from a non-ranking South Carolina high school, non-ranking South Carolina approved home school association or out-of-state preparatory high school and attends an eligible four-year institution;

5. Earn a cumulative 3.0 grade point average (GPA) upon high school graduation on the Uniform Grading Policy if a first-time entering freshman at an eligible two-year or technical institution. No other grading policy will be allowed to qualify for the LIFE Scholarship. Grade point ratios must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. Institutions shall use the final GPA as reported by the high school on the official transcript;

6. Be admitted, enrolled full-time, and classified as a degree-seeking student at a public or independent institution in South Carolina;

7. Certify that he/she has never been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* to any felonies or any second or subsequent alcohol/drug related offenses under the laws of this or any other state or under the laws of the United States in order to be eligible for a LIFE Scholarship, except that a high school or college student otherwise qualified who has been adjudicated delinquent or has been convicted or pled guilty or *nolo contendere* to a second or subsequent alcohol or drug-related misdemeanor offense nevertheless shall be eligible or continue to be eligible for such scholarships after the expiration of one academic year from the date of the adjudication, conviction, or plea by submitting an affidavit each academic year to the institution. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* to a second alcohol/drug related misdemeanor offense is ineligible for the next academic year of enrollment at an eligible institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student will be eligible to receive the Scholarship the remainder of the academic year. However, the student will be ineligible for the Scholarship the following entire academic year of enrollment. If a student completes a pretrial intervention program and has his/her record expunged the conviction will not affect Scholarship eligibility; and

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

B. Any credit hours attempted or earned before high school graduation, hours exempted by examination, International Baccalaureate (IB) or Advanced Placement (AP) credit hours do not count against the terms of eligibility as provided in State Statute, Section 59-149-60. The credit hours earned before high school graduation

can be used toward the credit hour requirement. Credit hours earned through CLEP, IB or AP will be used toward the credit hour requirement.

C. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on active duty. The credit hours earned on active duty will not count against the terms of eligibility, but will be used towards the annual credit hour requirement.

D. First-time entering freshmen will not be penalized for any credit hours earned during the summer session immediately prior to the student's initial college enrollment. The credit hours earned will not count against the terms of eligibility. The credit hours may be used toward the annual credit hour requirement.

E. Students who complete their high school graduation requirements prior to the official graduation date reported on the final high school transcript may be eligible to receive the LIFE Scholarship dependent on the approval of the Commission on Higher Education (CHE). The student must complete and submit an Early Graduation Application, an official high school transcript, an official letter from the high school principal verifying that he/she has met all graduation requirements, and SAT/ACT scores (if attending a four-year institution) by the established deadline. Early graduates cannot use class rank in order to qualify for the LIFE Scholarship at four-year institutions for the spring semester since the class has not officially graduated. A student may use class rank to receive the Scholarship after the class officially graduates. Early graduates who enroll mid-year (spring term) and are awarded the LIFE Scholarship through the Early Graduation process will officially begin their initial college enrollment. In order to receive the LIFE Scholarship the next academic year, the student must earn a minimum of fifteen credit hours and a 3.0 "LIFE GPA" at the end of the academic year. The student will be eligible to receive the maximum number of terms of eligibility based on initial college enrollment. If a student does not submit an early graduation application for the spring term and has not officially graduated, the student should not have received the LIFE Scholarship and that term will not count against his/her terms of Scholarship eligibility.

F. First-time entering freshmen who enroll mid-year (spring semester) are eligible for the LIFE Scholarship if they qualified upon high school graduation.

G. LIFE Scholarship funds may not be applied to the cost of continuing education, remedial/developmental or non-degree credit courses for an associate's degree or higher. Twelve credit hours of the course load must be non-remedial/developmental, non-continuing education or degree-credit courses for an associate's degree or higher in order to receive LIFE Scholarship funds. Continuing education, non-degree credit for an associate's degree or higher and remedial/developmental courses will not be included in the "LIFE GPA" or credit hour calculations.

H. Non-degree credit hours shall be used to meet the full-time eligibility criteria for a diploma or certificate program only. Students must sign an affidavit certifying that they understand that non-degree credit hours will not be used in calculating the "LIFE GPA" or credit hour requirements if they are enrolled in an Associate's degree or higher.

I. Credit hours earned during the student's first two term(s) of remedial/developmental enrollment will not be used to determine remaining Scholarship eligibility at the completion of remediation unless the student has completed at least twelve credit hours of non-remedial/developmental coursework each term of enrollment. First-time entering freshmen attending an eligible two-year institution or technical college who enroll in fewer than twelve credit hours of non-remedial/developmental, including at least three hours of remedial/developmental courses during the first term(s) will not be eligible for Scholarship funds during this period. The student's initial college enrollment will begin after a maximum of two terms of remediation at an eligible two-year or technical college only. The student will be eligible for the Scholarship for the term following completion of remediation if the student was eligible to receive the LIFE Scholarship upon high school graduation. If the student requires more than one academic year of remedial/developmental coursework, then he/she will not be eligible for the LIFE Scholarship the term after completion of remediation. If the student was

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not eligible for the Scholarship upon high school graduation, the student must meet the conditions set forth in Section J below in order to gain the LIFE Scholarship.

J. Students who do not meet the scholarship eligibility requirements upon high school graduation and enroll in remedial/developmental courses during a maximum of two terms at an eligible two-year institution or technical college, and who enroll in fewer than twelve credit hours of non-remedial/developmental courses, must meet the scholarship eligibility requirements (earn a 3.0 "LIFE GPA" and earn an average of thirty credit hours for the academic year) at the end of the first year of enrollment in non-remedial/developmental courses to be eligible to receive the scholarship for the second year of enrollment in non-remedial/developmental courses. Credit hours earned during the student's first two term(s) of remedial/developmental enrollment will not be used to determine remaining Scholarship eligibility at the completion of remediation unless the student has completed at least twelve credit hours of non-remedial/developmental coursework each term of enrollment.

K. Students receiving a LIFE Scholarship are not eligible to receive a Palmetto Fellows Scholarship, SC HOPE Scholarship or Lottery Tuition Assistance in the same academic year.

L. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to receive the LIFE Scholarship. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, the students must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

M. All documents required for determining LIFE Scholarship eligibility must be submitted to the institution by their established deadline(s). Students must submit official transcripts from all previous and current institutions, which provide evidence to calculate the "LIFE GPA," determine initial college enrollment and earned annual credit hour requirement. Students that complete coursework at another institution at any time during the academic year (fall, spring, summer) must submit an official transcript to the home institution at the end of the academic year to determine eligibility for the LIFE Scholarship.

N. First-time entering freshmen who attended out-of-state preparatory high schools or graduated from a SC high school prior to the full implementation of the Uniform Grading Policy must have their high school transcript converted to the UGP in order to qualify for the LIFE Scholarship.

O. To be eligible for a LIFE Scholarship Enhancement each academic year, the student must:

1. Meet all of the eligibility requirements at the end of each academic year to receive a LIFE Scholarship as stipulated by state law and regulation and be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement disbursement. The student must receive the underlying LIFE Scholarship;

2. Be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds. Eligible programs include degrees awarded in math and science fields, computer science or informational technology, engineering, science education, math education and healthcare and related disciplines including medicine and dentistry. The student must meet all requirements for satisfactory academic progress towards completion of the declared major as established by the policies of both the institution and the academic department in which the student is enrolled;

3. Be enrolled at an eligible four-year public or independent institution located in South Carolina;

4. Effective for the 2007-08 academic year only, all students who are enrolled at a four-year institution as a sophomore, junior or senior must meet the continued eligibility requirements of earning a minimum average of 30 credit hours and a minimum 3.0 LIFE GPA as stipulated by law and regulation for the LIFE Scholarship by the end of each academic year, be a recipient of LIFE Scholarship funds, and be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds. These students may continue to receive the LIFE Scholarship Enhancement for their remaining terms of eligibility for the LIFE Scholarship. To be awarded a LIFE Scholarship Enhancement each year, these students must meet all requirements for the LIFE Scholarship and be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds;

5. Beginning with the Fall 2007 freshman class and thereafter, all students must have successfully completed a total of at least fourteen credit hours of instruction in mathematics and life and physical science courses, in any combination, by the end of the student's first year of enrollment in college (based on initial date of college enrollment). For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student's first year, Exempted Credit Hours placed on the student's official college transcript by the institution at which they were earned, College Level Examination Program (CLEP), Dual Enrollment, Pass/Fail courses with a grade of "Pass" (only), Satisfactory/Unsatisfactory courses with a grade of "Satisfactory" (only), International Baccalaureate (IB) courses and Advanced Placement (AP) courses in mathematics and life and physical sciences taken in high school in which the student scored a three or more on the advanced placement test and received college credit may count toward the fulfillment of this minimum requirement. The Commission will issue a list of eligible courses by CIP code for determining eligible coursework to meet the fourteen credit hour requirement. Remedial/developmental, continuing education, non-degree credit coursework and credit hours earned for courses taken after the end of the student's first year of college enrollment cannot be used to meet the specified minimum fourteen credit hour course level requirement to gain eligibility to receive the LIFE Scholarship Enhancement;

6. Meet the continued eligibility requirements for the LIFE Scholarship of a minimum 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year;

7. Be in the second, third or fourth year of full-time enrollment (based on initial date of college enrollment after high school graduation) at an eligible four-year public or independent institution in South Carolina. Students enrolled full-time in an eligible, approved five-year degree program may also be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment); and

8. Students who initially enroll in college mid-year (i.e., spring term) as a freshman and meet the requirements under Section 62-1200.10 may be eligible to receive a LIFE Scholarship Enhancement at the beginning of the spring term of the next academic year (i.e., beginning with the third ~~consecutive~~ term of full-time enrollment based on initial date of college enrollment). The student must earn a minimum average of 15 credit hours and a 3.0 LIFE GPA to be awarded a LIFE Scholarship the following academic year and a minimum average of 30 credit hours by the end of the first academic year (i.e., by the end of the fall term or second ~~consecutive~~ term of full-time enrollment based on initial date of college enrollment) of enrollment to receive a LIFE Scholarship Enhancement beginning the spring term of the second, third and/or fourth year of college enrollment.

P. The LIFE Scholarship and LIFE Scholarship Enhancement are to be annual awards. Half of the Scholarship and Enhancement funds are to be disbursed in the fall and half are to be disbursed in the spring. In the cases where students who initially enroll in college mid-year (i.e., spring term) as a freshman and meet the requirements under Sections 62-1200.10 (O) and 62-1200.15 (C), such student shall be awarded the LIFE Scholarship Enhancement one year after initial college enrollment (i.e., spring term). Students who change their

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major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

62-1200.15. Continued Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students must meet the following criteria to renew eligibility for the LIFE Scholarship:

1. Continue to meet all eligibility requirements as stated in the “Student Eligibility” Section;
2. Earn at least a 3.0 “LIFE GPA” by the end of the academic year; and
3. Meet the annual credit hour requirement (or its equivalent) by the end of the academic year based on initial college enrollment:
 - (a) earn a minimum of 30 (or the equivalent) credit hours if entering the second year; or
 - (b) earn a minimum of 60 (or the equivalent) credit hours if entering the third year; or
 - (c) earn a minimum of 90 (or the equivalent) credit hours if entering the fourth year; or
 - (d) earn a minimum of 120 (or its equivalent) credit hours if entering the fifth year of an approved five-year bachelor’s degree program.

B. Students who meet the continued eligibility requirements by the end of the spring term and who enroll in Maymester or summer term will not be eligible to receive the LIFE Scholarship if their cumulative grade point average falls below the minimum 3.0 “LIFE GPA” requirement by the end of the summer term.

C. Students who are LIFE eligible upon high school graduation and initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship the next academic year, if the student earns a minimum of fifteen (15) credit hours and a 3.0 “LIFE GPA” at the end of the academic year. For subsequent years, the student must meet the annual credit hour requirement and 3.0 LIFE GPA for renewal:

- (a) earn a minimum of 45 (or the equivalent) credit hours if entering the fourth semester based on initial college enrollment; or
- (b) earn a minimum of 75 (or the equivalent) credit hours if entering the sixth semester based on initial college enrollment; or
- (c) earn a minimum of 105 (or the equivalent) credit hours if entering the eighth semester based on initial college enrollment; or
- (d) earn a minimum of 135 (or its equivalent) credit hours if entering the tenth semester of an approved five-year bachelor’s degree program based on initial college enrollment.

Students who fail to meet the initial academic eligibility criteria to receive the LIFE Scholarship upon high school graduation, and who initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship beginning in their second Fall term of college attendance at an eligible institution, if the student earns a minimum of forty-five (45) credit hours and a 3.0 “LIFE GPA” by the end of the prior academic year.

The student may be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

D. Students must meet the following criteria to renew eligibility for the LIFE Scholarship Enhancement:

1. Continue to meet all eligibility requirements as stated in the “Student Eligibility: LIFE Scholarship and the LIFE Scholarship Enhancement” Section;

2. Be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement disbursement; and

3. Be enrolled full-time at an eligible four-year public or independent institution as a declared major in an eligible science or mathematics program as stipulated under Section 62-1200.10.

E. Students who meet the continued eligibility requirements by the end of the spring term and who enroll in Maymester or summer term will not be eligible to receive the LIFE Scholarship Enhancement if their cumulative grade point average falls below the minimum 3.0 “LIFE GPA” requirement by the end of the summer term resulting in ineligibility for a LIFE Scholarship. Students who do not meet the continued eligibility requirements to receive the LIFE Scholarship cannot receive a Scholarship or LIFE Scholarship Enhancement for the following academic year.

F. The student may be eligible to receive the maximum number of terms of eligibility (i.e., six ~~consecutive~~ terms) for a LIFE Scholarship Enhancement starting the second year of college enrollment (based on initial date of college enrollment after high school graduation).

62-1200.20. Terms of Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The maximum number of terms of eligibility is based on the student’s initial college enrollment with the exception of the summer term immediately prior to the student’s initial college enrollment and up to one academic year of full-time enrollment in remedial/developmental coursework.

B. Students may receive a LIFE Scholarship for a maximum of two terms for a one-year educational program, four terms for an associate’s degree program or at least a two-year program that is acceptable for full credit towards a bachelor’s degree, eight terms (or its equivalent) towards the first bachelor’s degree or program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree program or ten ~~consecutive~~ terms towards an approved five-year bachelor’s degree program. (See chart in “C” below.) In cases where students are enrolled in a program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree, which will be the students’ first academic degree awarded, such students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement each academic term, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master’s of Science in Physician Assistant Studies Program, the Master’s of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor’s degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students are eligible to receive the LIFE Scholarship for a maximum of eight ~~consecutive~~ terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six ~~consecutive~~ terms (or its equivalent), as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education.

C. If a student pursues the following program, the terms of eligibility for the LIFE Scholarship will be based upon the student’s initial college enrollment:

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		Average Credit Hours Earned at the End of Each Academic Year				
Degree/Program	Maximum Terms of Eligibility	1st Year = 30 credit hours	2nd Year = 60 credit hours	3rd Year = 90 credit hours	4th Year = 120 credit hours	Fifth Year = 150 credit hours
		Terms of Remaining Eligibility at the End of Each Academic Year				
One-year Certificate/Diploma	2	0	0	0	0	0
Associate/Two-year Program	4	2	0	0	0	0
Bachelor/First Professional	8	6	4	2	0	0
Approved Five-year Bachelor	10	8	6	4	2	0

D. The maximum number of terms of eligibility for a LIFE Scholarship Enhancement is based on the student's continued eligibility for a LIFE Scholarship and beginning with the student's second year of college enrollment (based on initial date of college enrollment), with the exception of the summer term immediately prior to the student's initial college enrollment and up to one academic year of full-time enrollment in remedial/developmental coursework. Students will be allowed to break enrollment for the Fall 2020 term, only, and still maintain the allotted terms of eligibility.

E. Students may receive a LIFE Scholarship Enhancement for a maximum of six ~~consecutive~~ terms (i.e., three academic years) for a first bachelor's degree in an eligible program or an eligible program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree program, and eight ~~consecutive~~ terms (i.e., four academic years) towards an approved five-year bachelor's degree program and six ~~consecutive~~ terms towards a 3 plus 2 program. Students must be enrolled in an eligible four-year public or independent institution in South Carolina as a declared major in an eligible science or mathematics major or an eligible program that is approved and assigned a CIP code by the Commission on Higher Education. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students are eligible to receive a LIFE Scholarship for a maximum of eight ~~consecutive~~ terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six ~~consecutive~~ terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework. Students will be allowed to break enrollment for the Fall 2020 term, only, and still maintain the allotted terms of eligibility. Students who break enrollment for the Fall 2020 term may not attempt college coursework or earn college credit during this term. Students who are eligible to receive the LIFE Scholarship for the 2020-21 academic year, but who break enrollment for the Fall 2020 term may receive the maximum award amount allotted for a semester upon return to school in the Spring 2021 term. Students who take a break in enrollment during Fall 2020 will be expected to meet all scholarship requirements, including credit hour requirements, to be eligible for the award in 2021-22.

62-1200.25. Regaining or Earning Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students who were U.S. Citizens or legal permanent residents, and South Carolina residents at the time of high school graduation and college enrollment, but were not initially eligible upon high school graduation or failed to meet the continued eligibility requirements can earn or regain eligibility for the LIFE Scholarship if they:

1. Meet all eligibility requirements as stated in the “Student Eligibility” Section;
2. Earn at least a 3.0 “LIFE GPA” by the end of the academic year;
3. Meet the annual credit hour requirement by the end of the academic year based on Initial college enrollment:
 - (a) earn a minimum of 30 (or the equivalent) credit hours if entering the second year; or
 - (b) earn a minimum of 60 (or the equivalent) credit hours if entering the third year; or
 - (c) earn a minimum of 90 (or the equivalent) credit hours if entering the fourth year; or
 - (d) earn a minimum of 120 (or its equivalent) credit hours if entering the fifth year of an approved five-year bachelor’s degree program.
 - (e) earn the required number of credit hours as stated in Section 62-1200. 15 (C) for students who initially enroll mid-year.

B. A student who has earned a GED diploma may be eligible to earn the LIFE Scholarship at the end of the first academic year of a non-GED program. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 “LIFE GPA” at the end of the first academic year. To qualify for subsequent years, the student must meet all eligibility requirements as stated in Section A above.

C. A student who has graduated from a homeschool association not approved by the state of South Carolina may be eligible to earn the LIFE Scholarship at the end of the first academic year based on initial college enrollment. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 “LIFE GPA” at the end of the first academic year. The student may also qualify in subsequent years by meeting all eligibility requirements as stated in Section A above.

D. Students who have met the initial eligibility criteria for the LIFE Scholarship and initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship the next academic year, if the student earns a minimum of fifteen credit hours and earns a cumulative 3.0 “LIFE GPA” at the end of the academic year. For subsequent years, the student must meet the annual credit hour requirement for renewal (refer to Section 62-1200. 15 (C) for the required number of credit hours for mid-year students). The student may be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

E. Students who were not initially eligible for a LIFE Scholarship (as stated in this section) upon high school graduation or failed to meet the continued eligibility requirements for a LIFE Scholarship may earn or regain eligibility for a LIFE Scholarship Enhancement if they:

1. Meet all eligibility requirements as stipulated in Section 62-1200.10 and are recipients of a LIFE Scholarship;
2. Earn at least a 3.0 “LIFE GPA” and meet the annual credit hour requirement by the end of each academic year based on initial college enrollment to receive a LIFE Scholarship; and
3. Be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement funds disbursement.

62-1200.30. Transfer Students: LIFE Scholarship and LIFE Scholarship Enhancement.

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A. Students must meet all eligibility requirements for a LIFE Scholarship and for a LIFE Scholarship Enhancement as stipulated in Section 62-1200.10.

B. Transfer students who receive the LIFE Scholarship and transfer mid-year to another institution may be eligible to receive the Scholarship for the spring term if they met the eligibility requirements at the end of the previous academic year (See “Transfer Student” Section B for eligibility requirements):

1. Freshmen who transfer mid-year to the same type of institution (two-year to two-year or four year to four-year) must have met the Scholarship requirements of the respective institution at the time of initial college enrollment; or

2. Freshmen who transfer mid-year from a two-year to a four-year institution must meet the eligibility requirements of a first-time entering freshmen enrolling at a four-year institution; or

3. Freshmen who transfer mid-year from a four-year to a two-year institution must meet the eligibility requirements of a first-time entering freshmen enrolling at a two-year institution.

C. For determining initial eligibility for transfer students for the first-time at an eligible public or independent institution in SC, students must meet the following requirements at the end of the previous academic year:

1. Earn a cumulative 3.0 LIFE GPA; and

2. Meet one of the following:

- (a) earn a minimum of thirty credit hours (or equivalent) at all institutions if entering the second year of college based on initial college enrollment; or

- (b) earn a minimum of sixty credit hours (or equivalent) at all institutions if entering the third year of college based on initial college enrollment; or

- (c) earn a minimum of ninety credit hours (or equivalent) at all institutions if entering the fourth year of college based on initial college enrollment; or

- (d) earn a minimum of one hundred twenty credit hours (or equivalent) at all institutions if entering the fifth year of college in an approved five-year bachelor’s degree program based on initial college enrollment; or

- (e) earn the required number of credit hours as stated in Section 62-1200.15 (C) for students who initially enroll mid-year based on initial college enrollment.

D. For eligibility in subsequent years, transfer students must earn a 3.0 LIFE GPA and meet the annual credit hour requirement (or its equivalent) at all eligible institutions by the end of the academic year based on initial college enrollment.

E. The institution where the student is transferring will determine the classification of the entering transferring student based on initial college enrollment and will use this classification to determine the remaining terms of eligibility in compliance with the “Terms of Eligibility” Section.

F. Students transferring to an eligible public or independent four-year South Carolina institution may be eligible to receive a LIFE Scholarship Enhancement if they meet the requirements under Section 62-1200.10 and:

1. The student is a LIFE Scholarship recipient and transferring from an out-of-state institution or

from an in-state four-year institution to an eligible public or independent four-year institution at the end of the academic year. The student must earn a minimum 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment) to receive a LIFE Scholarship Enhancement beginning the fall term of the second, third and/or fourth year of enrollment. Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

2. The student is a LIFE Scholarship recipient and transferring from an out-of-state institution or from an in-state four-year institution to an eligible public or independent four-year institution mid-year (i.e., spring term). The student may be eligible to receive a LIFE Scholarship Enhancement for the spring term of the second, third or fourth year of enrollment, if the student earned a 3.0 LIFE GPA and minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment). Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

3. The student is a LIFE Scholarship recipient and transferring from a two-year institution to an eligible public or independent four-year institution at the end of the academic year. The student must earn a 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment) to receive a LIFE Scholarship Enhancement beginning the fall term of the second, third and/or fourth year of enrollment. Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

4. The student is a LIFE Scholarship recipient and transferring from a two-year institution to an eligible public or independent four-year institution mid-year (i.e., spring term). The student may be eligible to receive a LIFE Scholarship Enhancement for the spring term of the second, third or fourth year of initial college enrollment, if the student earned a 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment). Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

62-1200.35. Students with Disabilities: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in “Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students” Sections except for the full-time enrollment requirement, if approved by the Disability Services Provider at the home institution. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973. It is the responsibility of the transfer student to provide written documentation concerning services from the previous institutional Disability Services Provider.

B. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status or earn less than the required annual credit hours. The institution is responsible for retaining appropriate documentation according to the “Program Administration and Audits” Section.

C. For renewal, students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all requirements as stated in the “Continued Eligibility” Section, except that if a student does not meet the annual credit hour requirement, the student must have been approved by the institutional Disability Services Provider in the prior academic year to be enrolled in less than “full-time” status or less than the required thirty credit hours. Each academic year, students must complete the required number of credit hours approved by the

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institutional Disability Services Provider for LIFE Scholarship and LIFE Scholarship Enhancement renewal and earn a 3.0 "LIFE GPA." Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

D. Students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 may receive the maximum number of terms of eligibility as stated in the "Terms of Eligibility" Section.

E. In order to be eligible for the LIFE Scholarship and LIFE Scholarship Enhancement, students who no longer qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must comply with all requirements set forth under the "Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students" Sections.

62-1200.40. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of LIFE Scholarship and LIFE Scholarship Enhancement funds for internships, cooperative work programs, travel study programs or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit. LIFE Scholarship and LIFE Scholarship Enhancement funds must be paid directly to the student's account at the home institution and cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer LIFE Scholarship or LIFE Scholarship Enhancement funds directly to the institution where the student will participate in internships, cooperative work programs, travel study programs or National or International Student Exchange Programs. The institution is responsible for LIFE Scholarship and LIFE Scholarship Enhancement funds according to the "Policies and Procedures for Awarding" Section.

C. Students who enroll in one academic term at the home institution and also enroll in an internship, cooperative work program, travel study program or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year, must complete fifteen credit hours and earn a 3.0 "LIFE GPA" by the end of the academic year to be eligible for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year. Students who did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on their initial college enrollment date (provided the student meets continued eligibility requirements).

D. For students enrolled in an internship, cooperative work program, travel study program or National or International Student Exchange Program during the entire academic year that is approved by the home institution but does not award full-time transfer credit for the entire academic year, LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year will be based on the prior year's eligibility. Students who did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the student meets the continued eligibility requirements).

E. Students enrolled in an internship, a cooperative work program, a travel study program or national or international student exchange program during the academic year that is approved by the home institution and

did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the student meets the continued eligibility requirements). In order to receive LIFE Scholarship and LIFE Scholarship Enhancement funds for summer school at the home institution, students must enroll in twelve credit hours during the summer. In order to maintain eligibility for the next academic year for students who only attend summer school at the home institution, the student must earn twelve credit hours during the academic year. For students who enroll in summer school and one other term of the academic year at the home institution, the student must earn a total of twenty-seven credit hours (or its equivalent) for the academic year. The student must meet all eligibility requirements as specified in the "Student Eligibility" and "Continued Eligibility" Sections, except for the completion of the annual credit hour requirement for the academic year.

F. The home institution will be responsible for obtaining official certification of the student's grade point average, credit hours earned, and satisfactory academic progress for the purposes of determining eligibility for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year.

62-1200.45. Military Mobilization: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused terms for the LIFE Scholarship and LIFE Scholarship Enhancement while mobilized during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets continued eligibility requirements). The service member must re-enroll in an eligible institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment to receive LIFE Scholarship and LIFE Scholarship Enhancement. Reinstatement of the LIFE Scholarship and the LIFE Scholarship Enhancement will be based upon the service member's eligibility at the time he/she was mobilized. If the student re-enrolls after the twelve month period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for an entire academic year may renew the LIFE Scholarship and the LIFE Scholarship Enhancement for the next academic year, if they met the eligibility requirements at the end of the prior academic year. Service members who did not use the LIFE Scholarship and LIFE Scholarship Enhancement funds/terms of eligibility during this period due to military mobilization shall be allowed to receive the LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets continued eligibility requirements).

C. Service members who are enrolled in college and are mobilized for one academic term must complete fifteen credit hours and earn a 3.0 "LIFE GPA" by the end of the academic year to be eligible for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year. Service members who did not use LIFE Scholarship and LIFE Scholarship Enhancement funds/terms of eligibility during this period shall be allowed to receive the LIFE Scholarship and LIFE Scholarship Enhancement during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets the continued eligibility requirements).

D. In order to receive the LIFE Scholarship and the LIFE Scholarship Enhancement for summer school for the unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution. For service members who enroll in summer school and one other term of the academic

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year, the service member must earn a total of twenty-seven credit hours (or its equivalent) for the academic year. In order to maintain eligibility for the next academic year for service members who only attend summer school, the member must earn twelve credit hours during the academic year. The service member must meet all eligibility requirements as specified in the "Student Eligibility" and "Continued Eligibility" Sections for the LIFE Scholarship and LIFE Scholarship Enhancement, except for the completion of the thirty credit hour requirement for the academic year.

E. The home institution will be responsible for receiving verification of military mobilization status, "LIFE GPA," credit hours earned and terms of eligibility based on the service member's initial college enrollment and eligibility for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year.

F. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on military mobilization. The credit hours earned will not count against the terms of eligibility, but will be used toward the annual credit hour requirement for the LIFE Scholarship and towards the minimum fourteen credit hour course level requirement for the LIFE Scholarship Enhancement.

62-1200.50. LIFE Scholarship Refunds and Repayments.

A. In the event a student who has been awarded a LIFE Scholarship and LIFE Scholarship Enhancement withdraws, is suspended from the institution, or drops below full-time enrollment status during any term of the academic year, institutions must reimburse the LIFE Scholarship Program for the amount of the LIFE Scholarship and LIFE Scholarship Enhancement for the term in question pursuant to the refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the LIFE Scholarship and LIFE Scholarship Enhancement may be retained pursuant to the refund policies of the institution.

62-1200.55. Appeals Procedures: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The Commission on Higher Education shall define the appeals procedures.

B. Students who did not meet the continued eligibility requirements for the LIFE Scholarship at the end of the academic year due to an extenuating circumstance may request an appeal with the Commission on Higher Education.

C. The Commission on Higher Education will allow a student to submit only one appeal each academic year based on an extenuating circumstance.

D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal's application by the required deadline(s) will result in forfeiture of the scholarship.

E. The LIFE Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

F. Appeal Guidelines apply only to the LIFE Scholarship, not the LIFE Scholarship Enhancement. Students cannot appeal solely on the basis of a loss of a LIFE Scholarship Enhancement. However, students who appeal

and are awarded the LIFE Scholarship under this section may be eligible to receive the LIFE Scholarship Enhancement.

G. The Appeals Committee's decision is final.

62-1200.60. Institutional Policies and Procedures for Awarding: LIFE Scholarship and LIFE Scholarship Enhancement.

A. All eligible institutions are responsible for ensuring that each student has met the criteria based on state law and regulation to determine eligibility for the LIFE Scholarship and the LIFE Scholarship Enhancement as stipulated in Section 62-1200.10 and Section 62-1200.15.

B. Each institution is responsible for reviewing all students based on the "LIFE GPA" calculation below to determine eligibility for the LIFE Scholarship. Institutions must use official transcripts from all eligible institutions for each student and the steps in Section E below.

C. The institution must use grades earned at all eligible institutions during any term (fall, spring, and/or summer) for calculating a "LIFE GPA" at the end of the academic year.

D. The student must certify by submitting a signed affidavit that he/she is responsible for submitting transcripts from all previous and current eligible institutions. Students who complete coursework at another institution at anytime during the academic year (fall, spring, summer) must submit an official transcript to the home institution at the end of the academic year to determine eligibility for the LIFE Scholarship.

E. Steps for calculating a "LIFE GPA:"

1. Convert all grades earned at an eligible institution to a 4.0 scale based on each institution's grading policy where the grades were earned = Grade Points

2. Multiply the grade points by attempted credit hours = Quality Points (QP)

3. Divide the total quality points by the total number of attempted credit hours = LIFE GPA

4. "LIFE GPA" Formula:
$$\frac{\text{Grade Points} \times \text{Attempted Credited Hours} = \text{QP}}{\text{Total Attempted Credit Hours}} = \text{LIFE GPA}$$

F. The "LIFE GPA" must include all grades earned at eligible institutions, including courses that do not transfer based on the institution's policy and college courses taken while in high school.

G. The "LIFE GPA" must not include attempted credit hours earned for continuing education courses, non-degree credit courses for an associate's degree or higher and remedial/developmental courses.

H. The student must meet the annual credit hour requirement at the end of the academic year based on initial college enrollment as defined in the "Continued Eligibility," "Regaining or Earning Eligibility" or "Transfer Students" Sections.

I. LIFE Scholarship awards are to be used only for payment toward the cost-of-attendance as established by Title IV Regulations. Eligible four-year public and independent institutions shall identify award amounts up to the cost-of-tuition for thirty credit hours, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. Eligible two-year public or technical institutions shall identify award amounts, which cannot exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. For students enrolled at eligible two-year independent i

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nstitutions, the award amount shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. Half shall be awarded during the fall term and half during the spring term (or its equivalent), assuming continued eligibility. The LIFE Scholarship in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

J. The LIFE Scholarship Enhancement is an annual award. Half of the funds are to be disbursed in the fall term and half to be disbursed in the spring term. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

K. The institution shall specify exact LIFE Scholarship Enhancement amounts to be used only for payment toward the cost-of-attendance as established by Title IV Regulations at eligible four-year public and independent institutions in South Carolina. The annual LIFE Scholarship Enhancement award amount shall not exceed \$2,500.00 per academic year for no more than three years of instruction if enrolled in an eligible four-year degree program or for not more than four years of instruction if enrolled in an eligible approved five-year degree program. Students enrolled in an eligible 3 plus 2 program shall receive a LIFE Scholarship for no more than four years of instruction and a LIFE Scholarship Enhancement for no more than three years of instruction. Half of the LIFE Scholarship Enhancement funds shall be awarded in the fall term and half during the spring term (or its equivalent), assuming continued eligibility. The LIFE Scholarship Enhancement in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV Regulations for any academic year.

L. In determining the amount awarded for the LIFE Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds and the base LIFE Scholarship must be applied to the unmet total cost of attendance in accord with Title IV Regulations before calculating the LIFE Scholarship Enhancement amount and receiving the funds. Adjustments to the financial aid package will be made to the LIFE Scholarship Enhancement in accordance with prescribed Title IV Regulations in order to prevent an over award.

M. Students who have already been awarded a first bachelor's degree or graduate degree are not eligible to receive a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree as defined in the "Program Definitions" Section must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

N. Eligible institutions shall provide an award notification to eligible students that contains the terms and conditions of the LIFE Scholarship and the LIFE Scholarship Enhancement. Institutions will notify students and the SC Commission on Higher Education of any adjustments in LIFE Scholarship and LIFE Scholarship Enhancement funds that may result from an over award, change in eligibility, change in the student's residency or change in financial status or other matters.

O. The institution must retain annual paper or electronic documentation for each LIFE Scholarship and LIFE Scholarship Enhancement award to include at a minimum:

1. Award notification
 2. Institutional disbursement to student
 3. Student's residency status
 4. Refunds and repayments (if appropriate)
 5. Enrollment and curriculum requirements
 6. Verification of a 3.0 "LIFE GPA" and the required number of annual credit hours based on initial college enrollment
 7. Affidavit documenting that the student: a) has never been convicted of any felonies and/or a second or subsequent alcohol/ drug-related misdemeanor offenses within the past academic year; b) understands that non-degree credit hours will not be used in calculating the "LIFE GPA" or credit hour requirements if they are enrolled in an associate's degree or higher; and c) must certify that they have submitted transcripts from all previous and current institutions attended
 8. Institutional Student Information Record (ISIR) or affidavit documenting that the student is not in default or does not owe a refund or repayment on any state or federal financial aid
 9. High school transcript(s) verifying graduation or home school completion date, grade point averages and class ranks (first-time entering freshmen) or GED or Adult Education High School Diploma
 10. SAT or ACT scores (first-time entering freshmen)
 11. Verification of student's disability from Institutional Disability Service Provider and verification of reduced course-load requirement (if appropriate)
 12. Military mobilization orders (if appropriate)
 13. Beginning with the 2007-08 freshman class and thereafter, all institutions must retain documentation verifying that students met the minimum fourteen credit hour course level requirement by the end of the first year of college enrollment for the LIFE Scholarship Enhancement.
 14. Verification from academic department of enrollment in a declared major in an eligible degree program (LIFE and Palmetto Fellows Scholarship Enhancement purposes only)
 15. Documentation from Registrar or Admissions office that student's final high school GPA has been calculated pursuant to a grading scale that is at least equal to the SC UGP (For students who are attempting to use a class rank from an out-of-state institution to qualify for the LIFE Scholarship).
 16. Verification from the institution that lawful presence of the student in the US has been verified.
- P. It is the institution's responsibility to ensure that only eligible students receive a LIFE Scholarship and LIFE Scholarship Enhancement award.
- Q. Any student who has attempted to obtain or has obtained a LIFE Scholarship and a LIFE Scholarship Enhancement award through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the LIFE Scholarship and the LIFE Scholarship Enhancement.

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62-1200.65. Institutional Disbursements: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Eligible four-year public and independent institutions shall award LIFE Scholarship amounts, which cannot exceed the cost-of-tuition for thirty credit hours a year, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. Eligible two-year public or technical institutions shall award LIFE Scholarship amounts, which cannot exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. For students enrolled at eligible two-year independent institutions, the award amount for a LIFE Scholarship shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. Half of the LIFE Scholarship shall be awarded during the fall term and half during the spring term (or its equivalent), assuming continued eligibility. LIFE Scholarship funds cannot be disbursed during the summer or any interim sessions with the exception to disbursements that meet the requisites under the “Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs” or “Military Mobilization” Sections. The LIFE Scholarship in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

B. Eligible four-year public and independent institutions only shall award LIFE Scholarship Enhancement amounts, which cannot exceed the cost-of-attendance for thirty credit hours a year, not to exceed \$2,500 per academic year. The LIFE Scholarship Enhancement cannot be disbursed during the summer or any interim sessions with the exception of disbursements that meet the requisites under the “Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs” or “Military Mobilization” Sections. The LIFE Scholarship Enhancement in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV Regulations for any academic year.

C. The LIFE Scholarship and the LIFE Scholarship Enhancement may not be applied to a second bachelor’s degree or a graduate degree program as defined in the “Program Definitions” Section. In the event of early graduation, the LIFE Scholarship and LIFE Scholarship Enhancement awards are discontinued. Students are eligible to receive the LIFE Scholarship for a maximum of eight ~~consecutive~~ terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six ~~consecutive~~ terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. In such cases where students are enrolled in a program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree, which will be the students’ first academic degree awarded, such students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master’s of Science in Physician Assistant Studies Program, the Master’s of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor’s degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

D. In determining the amount awarded for the LIFE Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds and the base LIFE Scholarship, must be applied to the unmet total cost-of-attendance in accord with Title IV Regulations before calculating the LIFE Scholarship Enhancement amount and receiving the funds. Adjustments to the financial aid package will be made to the base LIFE Scholarship and LIFE Scholarship Enhancement in accordance with prescribed Title IV Regulations in order to prevent an over award.

E. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time, degree-seeking student. The institution must submit a request for LIFE Scholarship and LIFE Scholarship Enhancement funds and/or return of funds by the established deadline each term. In addition, a listing of all eligible recipients by identification numbers with award amounts for the term must be sent to the Commission on Higher Education. At this time any unused funds must be returned to the Commission on Higher Education immediately.

F. The Commission will disburse LIFE Scholarship and LIFE Scholarship Enhancement awards to the eligible institutions to be placed in each eligible student's account.

G. The student must be enrolled at the time of disbursement of LIFE Scholarship and LIFE Scholarship Enhancement funds as a full-time student at the home institution, and meet all requirements as established in the "Student Eligibility" Section for a LIFE Scholarship and the a LIFE Scholarship Enhancement. Students who are retroactively awarded must have been enrolled in a minimum of twelve credit hours (full-time) as a declared major in an eligible program under Section 62-1200.10 at the home institution at the time the LIFE Scholarship and LIFE Scholarship Enhancement would have been disbursed for that term.

H. The LIFE Scholarship and LIFE Scholarship Enhancement are to be annual awards. Half of the funds are to be disbursed in the fall term and half to be disbursed in the spring term. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

62-1200.70. Program Administration and Audits: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulation) relative to this program with participating institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulation governing the LIFE Scholarship Program, any audits or other oversight as may be deemed necessary to monitor the expenditures of scholarship funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulation. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education a LIFE Scholarship institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

D. The participating institution shall identify to the Commission on Higher Education an institutional representative who is responsible for determining residency classification for the purposes of awarding the LIFE Scholarship.

E. All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives a LIFE Scholarship and LIFE Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall

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not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-1200.75. Suspension or Termination of Institutional Participation: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with Program statutes, guidelines, rules or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the Program and require reimbursement to the LIFE Scholarship Program for any LIFE Scholarship or LIFE Scholarship Enhancement funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any eligible public or independent institution, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

D. The institution is responsible for determining SC residency and lawful presence of all LIFE Scholarship and LIFE Scholarship Enhancement recipients. If it is determined that the institution has failed to verify the lawful presence and SC residency of a LIFE Scholarship or LIFE Scholarship Enhancement recipient, the institution shall immediately reimburse the funds disbursed in error.

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

F. The student shall be required to provide a nationally recognized, unique identifier in order to award, disburse and/or transfer the student's LIFE Scholarship to an eligible institution.

Filed: August 14, 2020 12:20pm

Document No. 4972
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-104-20

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

Emergency Situation:

During Spring 2020 the United States experienced the beginning of the COVID-19 pandemic. Because of this pandemic, South Carolina, along with the rest of the nation, saw cancellations of various educational testing opportunities for students. This included the cancellation of standardized tests such as the SAT and ACT examinations. In addition, many students will need to sit out the upcoming Fall 2020 academic semester for

various COVID-19 related reasons. This emergency regulation seeks to assist affected high school students by providing them with an opportunity to take the ACT examination through July 2020, and to use the earned scores to meet the qualifications for state scholarships. In addition, the emergency regulation also provides students with the opportunity to take a break in enrollment during the Fall 2020 academic term and still maintain their remaining terms of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement eligibility. CHE is refiling the emergency regulation due to the continuation of exigent circumstances

Text:

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

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

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

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

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

62-305. Allocation of Program Funds.

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

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

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

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

62-310. Definitions.

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

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

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

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

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

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

G. “Continuously enrolled” is defined as enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions with the exception of students changing degree level within the programs cited in paragraphs L and HH of this section and students who have been granted preapproved leave status for no longer than one semester by their institution. Continuously enrolled includes summer terms, military mobilization, or students who transfer from a four-year institution only to return to a four-year institution. Students who are enrolled in internships, cooperative work programs, travel study programs, or National or International Exchange Programs that are approved by the home institution are considered continuously enrolled. Any student who has been suspended, expelled, does not attend subsequent (or consecutive semesters) that does not require a formal process of readmission to that institution, or voluntarily withdraws from a four-year institution and/or enrolls at a two-year institution during the interruption is considered to be no longer continuously enrolled. For the Fall 2020 term only, students will not be required to maintain continuous enrollment. Students who take a break in enrollment for the Fall 2020 term must meet all eligibility requirements prior to the break in enrollment in order to receive the Palmetto Fellows Scholarship upon return for the Spring 2021 term. Students who utilize the break in enrollment shall not enroll at any institution of higher education during the Fall 2020 term.

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

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

J. “Date of initial college enrollment” is defined as the first time a student matriculates into a postsecondary degree-granting institution after high school graduation or completion of an approved home school program, excluding the summer term immediately prior to the student’s enrollment in the first regular academic year. Students must remain continuously enrolled as any break in enrollment (excluding summer) will count toward the student’s terms of eligibility with the exception of eligible students who wish to break enrollment for the Fall 2020 term only. Students who utilize the break in enrollment, shall not enroll in any institution of higher education during the Fall 2020 term.

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

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

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

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

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

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

Q. "Eligible institution" is defined as a SC four-year public or independent bachelor's level institution.

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

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

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

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

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

W. "Full-time student" shall mean a student who has matriculated into a program of study leading to the first bachelor's degree, first approved five-year bachelor's degree or a program of study that is structured so as not

to require a bachelor's degree and leads to a graduate degree and who enrolls full-time, usually fifteen credit hours for the fall and fifteen credit hours for the spring term. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time at the home institution as stipulated by Title IV Regulations, except that credit hours may not include remedial coursework or continuing education coursework. Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

62-315. Initial Eligibility for Palmetto Fellows Scholarship.

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

1. Meet the eligibility criteria stipulated under the “Palmetto Fellows Scholarship Application” Section;
2. Be enrolled as a senior in an eligible high school;
3. Be classified as a South Carolina resident at the time of college enrollment;
4. Be a U.S. citizen or a lawful permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence in the US has been verified at the time of enrollment at the institution. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien’s immigration status with the federal government pursuant to 8 USC Section 1373(c). A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;
5. Be seriously considering attending, have applied, or have been accepted for admission to an eligible four-year bachelor’s degree-granting independent or public institution in South Carolina as a first-time, full-time, degree-seeking student; and
6. Certify that he/she has never been adjudicated delinquent, convicted or pled guilty or *nolo contendere* to any felonies and any second or subsequent alcohol, or drug related offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit each academic year to the home institution testifying to the fact, except that a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second or subsequent alcohol or drug related misdemeanor offense is only ineligible the next academic year of enrollment in an eligible independent or public institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the home institution, the student will continue to be eligible for the remainder of that academic year. However, the student will be ineligible the following academic year of enrollment. If a student completes a pretrial intervention program and subsequently has his/her record expunged, the conviction will not affect the student’s eligibility;
7. Submit the official Palmetto Fellows Scholarship Application by the established deadline(s) and comply with all the directions contained therein.

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

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

D. A student who graduates in December/January of the high school senior year (considered an early graduate) is eligible to apply for the Palmetto Fellows Scholarship after the completion of the junior year but prior to graduating high school, provided that the student meets all eligibility requirements as described in the “Initial Eligibility” Section and provided that the student is entering an eligible independent or public four-year institution no later than the Spring term one year immediately following high school graduation. Early graduates must be certified by the high school principal that they have met the SC graduation requirements. Students who graduate high school mid-year are unable to use rank as an eligibility criterion. The SC UGP GPA, as well as the high school graduation date, must be printed on the official final high school transcript. Students must enroll full-time continuously at a four-year institution no later than the Spring term one year immediately upon high school graduation. Early graduates who enroll mid-year (spring term) and are awarded the Palmetto Fellows Scholarship through the Early Graduation process will officially begin their initial college enrollment. In order to receive the Palmetto Fellows Scholarship the next academic year for a student who enrolls mid-year, the student must earn a minimum of fifteen credit hours and a 3.0 cumulative institutional GPA by the end of the academic year. For the Fall 2020 term only, eligible students will not be required to maintain continuous enrollment. Students who utilize the break in enrollment, shall not enroll in any institution of higher education during the Fall 2020 term.

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

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

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

62-318. Eligibility for Palmetto Fellows Scholarship Enhancement.

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

1. A Palmetto Fellow at the time the Scholarship Enhancement is disbursed;
2. Enrolled full-time, degree-seeking in a declared major in an eligible degree program;
3. Making satisfactory academic progress toward completion of his/her declared major; and
4. Enrolled in the second year, third year, fourth year, or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution.

B. Students must successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment, credit hours earned during the summer session immediately prior to the student's date of initial college enrollment, Pass/Fail courses with a grade of “Pass” (only), International Baccalaureate (IB) courses and Advanced Placement (AP) courses in mathematics and life and physical sciences taken in high school in which the student scored a three or more

on the advanced placement test and received college credit may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement.

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

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

62-320. Palmetto Fellows Scholarship Application.

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

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

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

1. Score at least 1200 on the SAT or 27 on the ACT through the March test administration of the senior year; earn a minimum 3.50 cumulative GPA on the current SC Uniform Grading Policy (UGP) at the end of the junior year; and rank in the top six percent of the class at the end of either the sophomore or the junior year; or
2. The alternate criteria of a score at least 1400 on the SAT or 32 on the ACT through the March test administration of the senior year and earn a minimum 4.00 cumulative GPA on the UGP at the end of the junior year, without regard to class rank.

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

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

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

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

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

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

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

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

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

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

calculation as determined by the Commission on Higher Education. The graduation date must also be printed on the final end of senior year high school transcript.

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

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

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

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

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

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

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

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

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

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

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

62-325. Palmetto Fellows Scholarship Selection Process.

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

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

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

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

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

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

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

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

3. For mid-year initial college enrollment (i.e. a student who starts college in the spring term), a student may receive a maximum of \$3,350 for the spring term. Beginning the second academic year (i.e. the fall term) a student may receive up to \$7,500 for the second year, third year, fourth year and fifth academic year (if applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation.

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

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

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

1. Room charges shall not exceed the average cost of on-campus residential housing; and
2. Board charges shall not exceed the cost of the least expensive campus meal plan that includes 21 meals per week.

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

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

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

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

I. All eligible independent and public institutions that participate in the program must verify the lawful presence in the US of any student who receives a Palmetto Fellows Scholarship and the Palmetto Fellows

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Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

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

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

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

3. Award notification

4. Institutional disbursements to student

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

6. Student's residency status and citizenship status

7. Enrollment status and degree-seeking status

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

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

10. Military mobilization orders (if appropriate)

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

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

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

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

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

62-335. Duration and Renewal of Awards.

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

B. Students selected as Palmetto Fellows must enter an eligible four-year independent or public institution no later than the fall term one year immediately following high school graduation. Students must be continuously enrolled at an eligible four-year institution, with the exception of eligible students who wish to break enrollment for the Fall 2020 term only. Students with a break in continuous full-time enrollment at a four-year institution or enrolling as a degree-seeking student at a two-year institution will forfeit the scholarship. Students who utilize the break in enrollment, shall not enroll in any institution of higher education during the Fall 2020 term.

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

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

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

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

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

1. Enroll and be continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student at the time of Scholarship disbursement, with the exception of eligible students who wish to break enrollment for the Fall 2020 term only. Students who utilize the break in enrollment, shall not enroll in any institution of higher education during the Fall 2020 term;

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

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

4. Certify each academic year that he/she has not defaulted and does not owe a refund or repayment on any federal or state financial aid. If a student has an Institutional Student Information Record (ISIR) or its equivalent

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

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

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

1. Be a Palmetto Fellow at the time the Scholarship Enhancement is disbursed;
2. Be enrolled and continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student in a declared major in an eligible degree program, with the exception of eligible students who wish to break enrollment for the Fall 2020 term only. Students who utilize the break in enrollment, shall not enroll in any institution of higher education during the Fall 2020 term;
3. Be making satisfactory academic progress toward completion of his/her declared major;
4. Be enrolled in the second year, third year, fourth year or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution; and
5. Successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment), and credit hours earned during the summer session immediately prior to the student's date of initial college enrollment may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement. Palmetto Fellows who were already enrolled in at least their second year in the 2007-2008 academic year only are not required to meet the fourteen credit hour requirement at the end of their first/freshman year.

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

62-340. Transfer of or Reapplication for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

A. Palmetto Fellows enrolled at an eligible four-year independent or public institution may transfer to another four-year eligible independent or public institution in South Carolina upon obtaining prior approval from the

Commission on Higher Education, by submitting a transfer form, which is available on the Commission's Web site.

B. A student who applied for and was offered the Palmetto Fellows Scholarship as a senior in high school, but declined the award to attend an out-of-state four-year institution no later than the fall term one year immediately following high school graduation or a student who attends an out-of-state institution at any time during the eight eligible terms, must reapply if they transfer to an eligible four-year independent or public institution in South Carolina. The reapplication form is available on the Commission's Web site.

C. Transfer students and reapplication students are only eligible to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement for the remaining terms of eligibility (based on the date of initial college enrollment).

D. Transfer students and reapplication students must comply with all standards for continued eligibility as defined under the "Duration and Renewal of Awards" Section in order for their award to be eligible for transfer.

E. The eligible four-year independent or public institution is responsible for reviewing all Palmetto Fellows transferring to their institution to determine whether the students are eligible for the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

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

62-345. Students with Disabilities.

A. Palmetto Fellows who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in the "Initial Eligibility" Section, except for the full-time enrollment requirement, in order to be eligible to receive funding. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. For renewal, Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all renewal requirements as defined in the "Duration and Renewal of Awards" Section, except for a student not meeting the annual credit hour requirement who is approved by the Disability Services Provider at the home institution to be enrolled in less than full-time status or less than the required annual credit hours for that academic year. Each academic year for award renewal, students must earn the required number of hours approved by the institutional Disability Services Provider at the home institution and earn a minimum 3.0 cumulative grade point average at the home institution for graduation purposes. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

C. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status or less than the required annual credit hours. It is the responsibility of transfer students and reapplication students to provide written documentation from the previous institutional Disability Services Provider.

D. Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 are eligible to receive up to the maximum number of available terms and available funds.

62-350. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs.

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A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive Palmetto Fellows Scholarship and Palmetto Fellow Scholarship Enhancement funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit. Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds must be paid directly to the student's account at the home institution. The amount awarded cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer funds to the institutions where students will participate in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs. The home institution is responsible for funds according to the "Program Administration and Audits" Section.

C. Students who enroll in one academic term at the home institution and also enroll in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year must earn at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal the next academic year. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

D. For students enrolling in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that is approved by the home institution but does not award full-time transfer credit for the entire academic year, renewal for the next academic year will be based on the prior year's eligibility. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

E. Students enrolling in an internship, a cooperative work program, a travel study program, or National or International Student Exchange Program that are approved by the home institution during the academic year and did not use their entire eligibility for the Palmetto Fellows Scholarship or the Palmetto Fellows Scholarship Enhancement funds during this period shall be allowed to receive one term of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements). In order to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for the succeeding summer term, students must enroll in twelve credit hours at the home institution. In order to maintain eligibility for the next academic year for students who only attend summer school, the student must earn at least twelve credit hours by the end of the academic year. For students who enroll in summer school and one other term of the academic year, the student must earn a total of at least 27 credit hours by the end of the academic year. The student must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

F. The home institution will be responsible for obtaining official certification of the student's cumulative grade point average and annual credit hours earned for purposes of determining eligibility for Scholarship and Enhancement renewal for the next academic year. For purposes of Enhancement eligibility, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-351. Military Mobilization.

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused term(s) while mobilized during the succeeding summer term or at the end of the maximum terms of eligibility (provided the service member meets continued eligibility requirements). The service member must re-enroll in an eligible independent or public institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment. Reinstatement will be based upon the service member's eligibility at the time he/she was mobilized. If the service member re-enrolls after the twelve month period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for a minimum of one academic year may be eligible the next academic year, if they met the continued eligibility requirements at the end of the last academic year of attendance. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

C. Service members who are enrolled in college and are mobilized for one academic term must complete at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal for the next academic year. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

D. In order to receive the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for summer school for any unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution. For service members who enroll in summer school and one other term of the academic year, the service member must earn a total of at least twenty-seven credit hours by the end of the academic year. In order to maintain eligibility for the next academic year for service members who only attend summer school, the member must earn at least twelve credit hours by the end of the academic year. The service member must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

E. The home institution will be responsible for obtaining verification of military mobilization status, cumulative grade point average and annual credit hours for the purpose of determining eligibility to renew the Palmetto Fellows Scholarship for the next academic year. For purposes of the Palmetto Fellows Scholarship Enhancement, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-355. Appeals Procedures.

A. The Commission on Higher Education shall define the procedures for scholarship appeals.

B. A student who does not meet the continued eligibility criteria for renewal of the Palmetto Fellows Scholarship forfeits continued participation in the Program and may request an appeal based on extenuating circumstances.

C. A student is allowed to submit only one appeal each academic year.

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D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal's application by the required deadline(s) will result in forfeiture of the scholarship.

E. A student who fails to submit an appeal by the required deadline will result in forfeiture of the award.

F. The Palmetto Fellows Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

G. Students cannot appeal solely on the loss of the Palmetto Fellows Scholarship Enhancement.

H. The Appeals Committee's decision is final.

62-360. Institutional Disbursement of Funds.

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

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

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

3. For mid-year initial college enrollment (i.e. a student who starts college in the spring term), a student may receive a maximum of \$3,350 for the spring term. Beginning the second academic year (i.e. the fall term) a student may receive up to \$7,500 for the second year, third year, fourth year and fifth year (if applicable) for the Palmetto Fellows Scholarship; Eligible Palmetto Fellows may prorate their award amount for the term of graduation (see section 62-330.B.).

B. Half shall be awarded during the fall term and half during the spring term. Funds cannot be disbursed during the summer or any interim sessions except for disbursements made in accordance with the requirements of the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs" or "Military Mobilization" Sections. Palmetto Fellows may not be funded for more than a total of eight terms of study toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for more than a total of ten terms of study toward the first approved five-year degree. Palmetto Fellows Scholarship Enhancements may not be funded for more than a total of six terms toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree or for no more than a total of eight terms toward the first-approved bachelor's degree.

C. The Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement cannot be applied to remedial coursework, continuing education coursework, a second bachelor's degree or to graduate coursework, unless the graduate coursework is required as part of a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree as defined in the "Definitions" Section or the student is enrolled in one of the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Doctor of Pharmacy at the Medical University of South Carolina; 3) Doctor of

Pharmacy at the University of South Carolina and 4) Doctor of Pharmacy at Presbyterian College. In the event of early graduation, the award is discontinued.

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

E. The institution shall provide each Palmetto Fellow with an award notification for each academic year, which will contain the terms and conditions of the Scholarship and other financial aid awarded. Students will be notified of adjustments in financial aid due to changes in eligibility and/or over-award issues. The Commission on Higher Education, for documentation purposes, requires that each institution obtain verification of acceptance of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and terms for the awards.

F. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time degree-seeking student.

G. The institution must submit a request for funds and/or return of funds by the established deadline each term. The Commission will disburse funds to eligible independent and public institutions to be placed in each eligible student's account. In addition, a listing of eligible recipients by identification number with the award amounts must be sent to the Commission on Higher Education by the established deadline each term. At this time, any unused funds must be returned to the Commission immediately.

H. The Commission will disburse awards to the eligible four-year independent and public institutions to be placed in each eligible student's account.

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

62-365. Refunds and Repayments.

A. In the event a student who has been awarded the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement withdraws, is suspended from the institution, or drops below full-time status during any regular term of the academic year, institutions must reimburse the Program for the amount of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for the term in question pursuant to refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the award may be retained by the student pursuant to the refund policies of the institution.

C. In the event a student who has been awarded the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and has been identified as not being a SC resident at any time, the institution must reimburse funds to CHE for the time period the student was no longer a SC resident.

62-370. Program Administration and Audits.

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this Program with the eligible independent and public institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation

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of guidelines and regulation governing the Program, any audits, or other oversight as may be deemed necessary to monitor the expenditure of funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible independent and public institutions must abide by all Program policies, rules and regulations. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the Program.

C. The Chief Executive Officer at each eligible independent and public institution shall identify to the Commission on Higher Education an institutional representative who is responsible for the operation of the Program on the campus and will serve as the contact person for the Program. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the Program.

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

E. The participating institution shall identify to the Commission on Higher Education an institutional representative who will be responsible for determining residency and lawful presence classification for the purposes of awarding the Palmetto Fellows Scholarship.

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

62-375. Suspension or Termination of Institutional Participation.

A. The Commission on Higher Education may review institutional administrative practices to determine compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with Program statutes, guidelines, rules or regulations, the Commission on Higher Education may suspend, terminate, or place certain conditions upon the institution's continued participation in the Program and require reimbursement to the Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation(s) may have occurred or are occurring at any eligible independent or public institution, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

Filed: August 14, 2020 11:21am

Document No. 4971

COMMISSION ON HIGHER EDUCATION

CHAPTER 62

Statutory Authority: 1976 Code Section 59-112-100

62-110 through 62-132. Student Loan Corporation.

Emergency Situation:

R.62-110 through 62-132 of Chapter 62 Student Loan Corporation SC Teachers Loan Program Regulations is being amended in response to the COVID-19 pandemic to allow a temporary waiver of Section 62-120(A)(6) of the SC Teachers Loan Program Regulation that references late Spring SAT and ACT examinations for 2020-21 Academic Year. In the proposed amendment, the regulation is being revised to address the cancellation of the Spring SAT and ACT test administrations and temporarily omit the requirements for entry into the program. CHE is refiling the emergency regulation due to the continuation of exigent circumstances.

Text:

ARTICLE II

STUDENT LOAN CORPORATION

(Statutory Authority: Act 512 Part 2 Section 9 Division 2 Subdivision C Subpart 1 (6), Acts of Joint Resolutions of South Carolina 1984)

SUBARTICLE A

GENERAL INTRODUCTION

62-110. Introduction.

The South Carolina Student Loan Corporation, hereinafter called the Corporation, is an eligible lender under the South Carolina Student Loan Program (FFELP) as administered by the State Education Assistance Authority, hereinafter called the Authority, and has been designated pursuant to the South Carolina Education Improvement Act of 1984 to administer a loan program for State residents who wish to become certified teachers in the State in areas of critical need. All loans made under this program shall be subject to the regulations contained herein. Loans shall be made available without regard to race, sex, color, national origin, age or marital status.

SUBARTICLE B

GENERAL REGULATIONS RELATING TO BORROWERS

62-120. Borrower Eligibility.

A. To be eligible to receive a loan under the Teachers Loan Program a student shall:

- (1) Be a citizen or permanent resident of the United States; and
- (2) Be a bona fide resident of South Carolina, as defined in applicable State statutes governing the determination of residency for tuition and fee purposes at public colleges and universities within this State; and
- (3) Have been accepted for enrollment, or enrolled in good standing in an eligible institution as defined in the Regulations of the Authority and further defined as follows:
 - (a) For institutions located in South Carolina, those:
 - (i) Which offer baccalaureate or higher degree programs which are approved for initial teacher certification by the State Board of Education (Board); or
 - (ii) Whose highest offering is the Associate of Arts or Associate of Science Degrees which are designed for transfer to baccalaureate programs including those in teacher education, and which are

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eleemosynary institutions accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(b) For institutions located out of the State, those institutions which are regionally accredited and which offer baccalaureate or higher degree programs which are approved for initial teacher certification by the appropriate credentialing agency in that State; and

(4) Be enrolled on at least a half-time basis; and

(5) Indicate a desire and intent to teach in South Carolina in an area of critical need as defined by the Board annually; and

(6) If an undergraduate student who has completed one year (two semesters or the equivalent) of collegiate work and who is attending a South Carolina institution, has taken and passed a "Basic Skills Test" as required by the Board for entrance into a program of teacher education; ~~or if an undergraduate who has not completed one year of collegiate work did achieve a score equal to or greater than the mean score achieved by all examinees in South Carolina taking the SAT or ACT in the year of graduation from high school or in the most recent year for which such figures are available;~~ and

(7) If an undergraduate student or a first-time graduate student, have attained a cumulative grade point ratio of at least 2.75 GPR (on a 4.0 scale) in collegiate work; or if an undergraduate who has not completed one semester of college work have graduated in the top 40% of his high school class or have received a high school diploma through completion of adult education courses or passing the GED; and

an undergraduate student, be formally admitted to an undergraduate teacher education program or if the student is not yet formally admitted to such a program the Department of Education, or its equivalent, at an eligible institution must certify that the student has expressed an intent and desire to enter the field of teaching, and is enrolled in a teacher education program at a time required by the institution; and

(8) If a continuing graduate student, have maintained a 3.5 GPR (on a 4.0 scale) on graduate work; and

(9) If a graduate student, have not previously been certified to teach, but entering a program for the specific purpose of becoming certified; or, if previously certified in a non-critical area, entering a program for the specific purpose of becoming certified to teach in a subject area which is defined by the Board as an area of critical need; and

(10) Be eligible in all other respects as may subsequently be required by the Corporation.

B. To be eligible to receive a loan up to the amount designated for individuals changing careers a student shall:

(1) Meet the eligibility requirements of 62-120(A). Students who have previously earned a baccalaureate degree will not be required to meet the academic standards specified in 62-120(A)(6), (7) and (9) during the initial year of teacher training. All applicable academic requirements must be met for all subsequent years; and

(2) Possess a baccalaureate degree or at the time of initial application be employed as an instructional assistant in the South Carolina public school system; and

(3) Have completed a baccalaureate degree a minimum of three years prior to the beginning of the teacher training (instructional assistants are exempt from this requirement); and

(4) Have been employed on a full time basis for minimum or three years, or the equivalent in part time employment, prior to the beginning of the teacher training; and

(5) Are not receiving any other funds through this program for the same period of teacher training.

C. To be eligible to receive a loan up to the amount designated for individuals participating in the Critical Needs Certification Program a student must be enrolled in the Critical Needs Certification Program as certified by the Board.

SUBARTICLE C

GENERAL REGULATIONS RELATING TO LOAN MAXIMUMS, ADMINISTRATION AND REPAYMENT

62-130. Loan Maximums.

A. The maximum amount an eligible student may borrow under this program, is established by the South Carolina Commission on Higher Education, hereinafter called the Commission.

B. The maximum amount a borrower meeting the eligibility criteria in 62-120(B) may borrow shall not be limited by any definition used by the institution in determining the eligibility for financial aid and receipt of these funds shall not affect any federal, state or private assistance which the student may be eligible to receive.

62-131. Loan Administration.

A. All loans shall be secured by a Promissory Note. Loan shall bear interest from the date of disbursement of funds to the borrower at the rate as may be specified by the Commission.

B. The proceeds of a loan shall normally be disbursed by academic registration period, but not sooner than required by the student to meet his educational expenses. A check made co-payable to the borrower and to the institution will be forwarded to the institution for distribution to the borrower; provided, however, that in situations in which it is not feasible to issue the check co-payable, the check will be made payable to the borrower alone and forwarded to the institution. Nothing in this section shall preclude loan funds being transferred to the institution by electronic means.

(1) Borrowers participating in the Critical Needs Certification Program will receive a single disbursement annually. A check will be made payable to the borrower and forwarded directly to that borrower.

C. The student and institution shall agree to return to the Corporation any refunds applicable to these loans to which the student is entitled due to withdrawal of the student from the institution.

62-132. Repayment.

A. A student who receives loans under this program shall be eligible to have the greater of 20% or three thousand dollars of the loan(s) cancelled for each full year, or the greater of 10% or one thousand five hundred dollars for each complete term of teaching experience as defined by the Board in the State in an area of critical need, up to a maximum of 100% of the amount of the loan(s) plus the interest thereon. There shall be no cancellation for partial terms.

(1) Upon employment in an eligible subject area, as defined by the Board at the time of loan application or subsequently, the borrower will be entitled to cancellation of all loans received under this program that are outstanding at the time of employment.

(2) Upon employment in a geographic area of critical need, the borrower will be entitled to cancellation of all loans received under this program even if such geographic area is subsequently no longer defined by the Board as one of critical need. If a borrower changes employment from one geographic area to another, cancellation of loans received under this program will be provided only if the geographic area to which the borrower is moving is defined as an area of critical need at that time. Defined Geographic areas of critical need will be provided to the borrower at the time the borrower begins to seek employment.

B. Borrowers who simultaneously meet the requirements described in A(1) and A(2) above shall be eligible to have the greater of 33 1/3% or five thousand dollars of the loan(s) cancelled for each full year, or the greater of 16 2/3% or two thousand five hundred dollars for each complete term, of teaching experience as defined by the Board, up to the maximum of 100% of the amount of the loan(s) plus the interest thereon. There shall be no cancellation for partial terms.

C. If a borrower does not meet the requirements for cancellation as specified in paragraph A above, the borrower must begin repayment of the loan(s) received under this program in accordance with the Regulations of the Corporation and subject to the terms of the Promissory Note(s), unless otherwise agreed to by the Corporation and the borrower. If a borrower does not initially meet the requirements for cancellations as set forth in paragraph A above, but subsequently does so, there will be no refund or credit provided for any amount paid; provided, however, any unpaid balance at the time the borrower begins teaching in an area of critical need will be eligible for cancellation subject to the regulations contained herein.

(1) Repayment of principal amount of a loan made under this program together with the interest, shall be made in monthly installments beginning six (6) months, after the date on which the borrower ceases to carry at least one-half the normal full-time academic work load at an eligible institution as defined by the Corporation or for borrowers participating in the Critical Needs Certification Program immediately upon disbursement of the loan funds. The monthly installment shall be at a rate which will repay the loan in not less than five (5) years nor more than ten (10) years from the beginning of the repayment period, unless the Corporation, at the request of the borrower, specifically provides a prepayment schedule that will repay the loan during a period of less than five (5) years. Unless specifically authorized by the Corporation, the monthly installment shall be at a rate of

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not less than \$50 per month. A borrower may accelerate repayment of the loan, in whole or in part, without penalty. Repayment of the loan is not required when the borrower is eligible for cancellation under 62-132 (A) of these regulations.

(2) In the event a borrower dies, the obligation to make any further repayment shall be cancelled upon receipt of a Certification of Death, (or upon receipt of such other evidence approved by the Corporation.) In the event a borrower becomes totally and permanently disabled, the obligation to make any further repayment shall be cancelled upon receipt of certification by a licensed physician.

(3) The Corporation shall have authority to assess a late charge for failure of the borrower to pay all or part of an installment within ten (10) days after its due date. The amount of such charge may not exceed six cents (.06) for each dollar of each installment due.

(4) The Corporation shall have the authority to collect from the borrower reasonable attorney's fees and other costs and charges necessary for the collection of any amount not paid when due.

(5) Nothing in this section shall preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the loan and approved by the Corporation

D. The Corporation shall develop and maintain such procedures, subject to the approval of the Commission, as may be necessary to carry out applicable provisions of Act 512, Acts of Joint Resolutions of South Carolina, 1984 (Educational Improvement Act), as amended, and as may be required to exercise reasonable care and diligence in the making and collection of loans.

Document No. 4989
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-210

Article 1, Subarticles 6 and 7
Occupational Safety and Health Standards

The South Carolina Department of Labor, Licensing and Regulation, Division of Occupational Safety and Health, hereby promulgates the following revisions to South Carolina regulations:

In Subarticle 6 (General Industry):

Revisions to Sections Appendix A to 1910.7 OSHA Recognition Process for Nationally Recognized Testing Laboratories, 1910.269 Electric Power Generation, Transmission, and Distribution, 1910.1025 Lead, and 1910.1027 Cadmium as amended in Federal Register Volume 85 No. 32, dated February 18, 2020, pages 8731 through 8732; and revisions to Section 1910.1024 Beryllium as amended in Federal Register Volume 85, No. 135, dated July 14, 2020, pages 42625 through 42628.

In Subarticle 7 (Construction):

Revisions to Sections 1926.20 General Safety and Health Provisions, 1926.62 Lead, Appendix B to 1926.62 Employee Standard Summary, 1926.65 Hazardous Waste Operations and Emergency Response, Appendix A to 1926.65 Personal Protective Equipment Test Methods, 1926.405 Electrical Wiring Methods, Components, and Equipment for General Use, 1926.452 Scaffolds, Additional Requirements Applicable to Specific Types of Scaffolds, Appendix E to Subpart L Drawings and Illustrations, Appendix A to Subpart M Determining Roof Widths, 1926.552 Material Hoists, Personnel Hoists, and Elevators, Appendix A to Subpart P Soil Classification, 1926.754 Structural Steel Assembly, 1926.757 Open Web Steel Joists, 1926.761 Training, 1926.968 Definitions, 1926.1101 Asbestos, Appendix K to 1926.1101 Polarized Light Microscopy of Asbestos, 1926.1127 Cadmium, and 1926.1431 Hoisting Personnel as amended in Federal Register Volume 85, No. 32, dated February 18, 2020, pages 8735 through 8746.

Copies of these final regulation changes can be obtained or reviewed by contacting the South Carolina OSHA Standards Office during normal business hours at (803) 896-5811, or via the OSHA website at www.OSHA.gov.