

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2018 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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4729		SR42-3	Determination of Rates of Tuition and Fees	2/13/18	Commission on Higher Education
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4788		SR42-5	Credential Classification	5/09/18	State Board of Education
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4801		SR42-5	Board of Examiners in Speech-Language Pathology and Audiology	5/09/18	LLR
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4786	Free Textbooks	State Board of Education
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4765	Auctioneers' Commission (Exam Fee)	LLR
4761	Board of Registration for Professional Engineers and Surveyors	LLR
4755	Operation of Public Pupil Transportation Services	State Board of Education
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The history, status, and full text of these regulations are available on the
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4729	Determination of Rates of Tuition and Fees	Regulations and Admin. Procedures	Education
4746	Articles 4, 5, 7 and 8 of Chapter 126	Regulations and Admin. Procedures	Medical Affairs
4740	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Regulations and Admin. Procedures	Medical Affairs
4758	Investigation and Production of Evidence	Regulations and Admin. Procedures	Judiciary
4757	Complaint	Regulations and Admin. Procedures	Judiciary
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4752	Employability Credential for Students with Disabilities	Regulations and Admin. Procedures	Education
4783	Defined Program 6-8	Regulations and Admin. Procedures	Education
4788	Credential Classification	Regulations and Admin. Procedures	Education
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4768	Definitions	Regulations and Admin. Procedures	Labor, Commerce and Industry
4779	Nurse Licensure Compact	Regulations and Admin. Procedures	Medical Affairs
4798	License Renewal	Regulations and Admin. Procedures	Labor, Commerce and Industry
4770	Audit Program	Regulations and Admin. Procedures	Labor, Commerce and Industry
4769	Licensure Fees	Regulations and Admin. Procedures	Fish, Game and Forestry
4766	Real Estate Appraisers Board	Regulations and Admin. Procedures	Labor, Commerce and Industry
4795	Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists	Regulations and Admin. Procedures	Labor, Commerce and Industry
4802	Recording and Reporting Occupational Injuries and Illnesses	Regulations and Admin. Procedures	Labor, Commerce and Industry
4799	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Regulations and Admin. Procedures	Fish, Game and Forestry
4803	Adjustment of Claims Under Unusual Circumstances	Regulations and Admin. Procedures	Banking and Insurance
4801	Board of Examiners in Speech-Language Pathology and Audiology	Regulations and Admin. Procedures	Medical Affairs
4760	South Carolina Stroke Care System	Regulations and Admin. Procedures	Medical Affairs
4792	Credit for Reinsurance	Regulations and Admin. Procedures	Banking and Insurance
4771	Wilderness Therapeutic Camps for Children	Regulations and Admin. Procedures	General
4782	Defined Program, Grades 9-12 and Graduation Requirements	Regulations and Admin. Procedures	Education
4732	Method of Operations; Application of Federal Truth in Lending Act; Other Cases - Summary Procedure; Delinquent Notification Filing and Fee Payment; and Filing and Posting Maximum Rate Schedules	Regulations and Admin. Procedures	Banking and Insurance
4759	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
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4785	Disposition of Instructional Materials Samples after State Adoption Process	Regulations and Admin. Procedures	Education
4786	Free Textbooks	Regulations and Admin. Procedures	Education
4787	Textbook Adoption Regulation	Regulations and Admin. Procedures	Education
4765	Auctioneers' Commission (Exam Fee)	Regulations and Admin. Procedures	Labor, Commerce and Industry

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

Executive Order No. 2018-15

WHEREAS, William D. Lewis, Sheriff of Greenville County, has been indicted by a Grand Jury convened in Greenville County for Misconduct in Office and Obstruction of Justice; and

WHEREAS, William D. Lewis, as Sheriff of Greenville County, South Carolina, is an officer of the State or its political subdivisions; and

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

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

WHEREAS, one or more of the crimes charged in the Indictments constitute “a crime involving moral turpitude”; and

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

WHEREAS, Johnny Mack Brown, residing at 479 North Poinsett Highway, Travelers Rest, South Carolina 29690, is a fit and proper person to serve as Sheriff of Greenville County; and

WHEREAS, as Governor of the State of South Carolina, I am mindful of the duties and responsibilities vested in me by the Constitution and Laws of this State.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby Order that William D. Lewis shall be and hereby is suspended from his office as Sheriff of Greenville County until such time as he shall be formally acquitted or convicted. Accordingly, I hereby appoint Johnny Mack Brown to serve as Sheriff of Greenville County until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first.

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

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 17th DAY OF APRIL, 2018.**

**HENRY MCMASTER
Governor**

6 EXECUTIVE ORDERS

Executive Order No. 2018-16

Waiver of Regulations to Expedite Procurement and Assist with Staffing at the Department of Corrections

WHEREAS, on April 15, 2018, the first of a series of inmate-on-inmate altercations broke out at 7:15 p.m. in the Lee Correctional Institute, a maximum-security facility; and

WHEREAS, inmate altercations occur due to control of money, territory, and contraband both inside and outside of the Lee Correctional Institute; and

WHEREAS, the Department of Corrections (“Department”) needs additional correctional officers to stop such altercations, and has trouble hiring and retaining correctional officers and other employees at current salary levels; and

WHEREAS, altercations such as the one on April 15, 2018 are coordinated through cell phones thrown over prison walls and delivered by drones and other means into prison yards; and

WHEREAS, the use of cell phones by incarcerated individuals allows the coordination of activities such as riots inside prison facilities, and allows inmates to direct and participate in criminal activities outside of the correctional facilities; and

WHEREAS, it bears repeating that in 2017, the Department confiscated 6,272 cell phones, which are one of many types of contraband, and that incarcerated individuals inside the Lee Correctional Institute filmed the riots on cell phones, posting videos and pictures of the incident; and

WHEREAS, an incarcerated individual who possesses contraband and a person who attempts to furnish or furnishes contraband to an incarcerated individual are guilty of a felony that is punishable by a fine between \$1000-\$10,000, and may include 1-10 years imprisonment; and

WHEREAS, cell phone use by incarcerated individuals is a security concern and a growing criminal justice crisis leading to violence inside and outside of correctional facilities; and

WHEREAS, the Federal Communications Commission (“FCC”) holds it unlawful under 47 USC §302a(b) to manufacture, market, or sell “jammers” that prohibit cell phone signals and could be used to stop communications within prisons, imposing fines as high as \$112,000 for one act within this statute and providing for prosecution and criminal time for such offenses; and

WHEREAS, the Governor has issued Executive Order 2018-10 ordering the State Guard to assist the Department, and the State Guard has committed resources to patrol outside of prisons to provide additional support in prohibiting contraband, which has started at Broad River and is now moving to Lee Correctional Institute; and

WHEREAS, the Department has taken other steps to stop contraband from entering correctional facilities and has worked to hire more security officers at a higher pay rate; and

WHEREAS, despite the Department’s continued efforts, recent violence and current continued threats of violence confirm that a danger exists in the Department due to contraband and staffing levels, and that conditions are a serious threat to the safety and security of citizens and inmates; and

WHEREAS, the Governor may take all measures and actions necessary to prevent violence and threats of violence and can proclaim an emergency; and

WHEREAS, the Governor may direct any persons to take such actions that in his opinion may prevent or minimize danger to life, limb and property; and

WHEREAS, section 25-1-440(3) under of the South Carolina Code of Laws provides that the Governor may also suspend provisions of “existing regulations proscribing 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, section 25-1-440(4) of the South Carolina Code of Laws states that the Governor may “utilize all available resources of state government as reasonably necessary to cope with the emergency”; and

WHEREAS, section 11-35-1570 of the South Carolina Code of Laws allows emergency procurements for immediate threats to public health or welfare, and the Department has an emergency that requires the expedited procurement of goods and services to make correctional facilities safer for employees, the general public and incarcerated persons.

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 proclaim an emergency due to the contraband and staffing levels, as defined in section 1-3-420 of the South Carolina Code of Laws, exists within the prison facilities managed by the Department and therefore direct the following:

The Department shall utilize emergency procurement procedures to purchase and contract for all items that will assist in securing prison facilities and making prisons safer for employees and those incarcerated. The Department shall include a copy of this Executive Order as the written determination required under section 11-35-1570 of the South Carolina Code of Laws.

With respect to hiring for the Department, I waive* all Human Resource Management Regulations to expedite hiring and salary reform for *security personnel* and other employees as the Agency Director determines are needed for security concerns. The Department’s Human Resources office shall inform managers which positions will be subject to expedited hiring and salary reform. Regulations waived include, but are not limited to:

§19-703.2 Report of Job Vacancies (waiving required posting of job vacancies and allowing on-the-spot hiring);

§19-703.04 Exemptions to Posting Job Announcements (allowing this Executive Order to preempt need for requisite certification);

§19-704.06 Reclassifications (providing for reclassifications without these restrictions);

§19-705.03 Hiring Salaries (providing for hiring without these restrictions);

§19-705.04 Salary Increases (waiving required approval under §19-705.06 Special Salary Adjustments);

§19-706.04 Hiring Salaries, Salary Increases [...] for Employees in Unclassified Positions; and

§19-706.05 Compensation Not Included in Base Salary (waiving administration requirements of bonus programs); and

8 EXECUTIVE ORDERS

§19-707.02 Overtime-Compensatory Time subsection (K) and the provision preventing exempt employees, specifically Lieutenant positions, from receiving overtime for time worked greater than 160 hours in a 28-day FLSA working week. The Department of Administration shall assist the Department as needed. This temporary wage change shall be in effect for three months and extended as needed by the Director. Lieutenants will receive notification 7 days in advance before ending this temporary modification.

*Said waivers of regulatory law do not exempt the Department from having lawful pay practices under state and federal law, or the requirement to be an equal opportunity employer.

In addition to already existing incentives (Retention Bonus, Referral Bonus, Spot Bonus and Medical/Mental Health Signing Bonus), the Department may look at creating new or expanding current programs as allowed under section 8-1-190 of the South Carolina Code of Laws and shall provide monetary rewards as an incentive. The Department of Administration shall work with the Department.

The Department shall utilize all available resources of state government as reasonably necessary to cope with the emergency and resources that may assist in funding necessary changes.

The Department may take all other and further actions as deemed necessary by the Director of the Department as allowed under this Executive Order. This emergency proclamation shall remain in place until modified, amended, or revoked by subsequent Executive Order.

This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 23rd DAY OF APRIL, 2018.**

**HENRY MCMASTER
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication May 25, 2018 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

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

Purchase of a mobile mammography coach at a total project cost of \$1,134,674.

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

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

Affecting Richland County**First Priority Home Care, LLC**

Establishment of a Home Health Agency in Richland County at a total project cost of \$15,000.

Providence Hospital, LLC d/b/a Providence Health – Northeast

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

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from May 25, 2018. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Charleston County**Medical University Hospital Authority d/b/a MUHA Ashley River Tower**

Renovation of existing space in the Ashley River Tower to add a hybrid operating room at a total project cost of \$4,269,096.

Trident Medical Center, LLC d/b/a James Island Emergency

Construction of a 12,760 BGSF Freestanding Emergency Department in Charleston County at a total project cost of \$12,493,978.

Affecting Florence County**Regency Hospital Company of South Carolina, LLC d/b/a Regency Florence**

Relocation of an existing 40-bed LTAC hospital from the Cedar Street campus to the main campus of Carolinas Hospital System with no increase in licensed bed capacity or services at a total project cost of \$3,224,054.

10 NOTICES

Affecting Horry County

Tidelands Health Market Commons, LLC d/b/a Tidelands Health Medical Park at The Market Common
Purchase of equipment for an Imaging Suite within a new 65,000 sq ft medical office building at a total project cost of \$12,328,994.

Affecting Lexington County

Lexington Open MRI, Inc. d/b/a Palmetto Imaging West Columbia
Acquisition of a prior mobile G.E. Signa 1.T MRI and permanently place it at the facility at a total project cost of \$675,000.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING AND OPPORTUNITY OF PUBLIC COMMENT ON PROPOSED DESIGNATION OF CAPACITY USE AREA PURSUANT TO S.C. CODE SECTION 49-5-60

May 25, 2018

The South Carolina Department of Health and Environmental Control proposes the designation of all of Aiken County, Allendale County, Bamberg County, Barnwell County, Calhoun County, Lexington County, and Orangeburg County as part of the Western Capacity Use Area. Interested persons are invited to make oral or written comments on the proposed Capacity Use Area at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on August 9, 2018. The public hearing will be held in the Board Room of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m. The Board's agenda will be published 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed Capacity Use Area to Mr. Robert Devlin at SCDHEC, Bureau of Water, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received no later than 5:00 p.m. on June 25, 2018. Comments received by the deadline date will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

SCDHEC's technical report on groundwater conditions in Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties is available on the Internet at <http://www.dhec.sc.gov/Library/CR-012038.pdf>. A copy of the report may be obtained by contacting Ms. Amira Berezowska at 803-898-3563.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than June 25, 2018 to:

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

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

Class I

Navarro Research & Engineering, Inc.
Attn: Susana Navarro Valenti, PhD
1020 Commerce Park Drive
Oak Ridge, TN 37830

SOUTH CAROLINA HUMAN AFFAIRS COMMISSION

ERRATA

65-2. Complaint.

At 65-2(E), replace the old address with the current address of the Commission. The change should read:

E. Place of Filing.

A complaint shall be filed with the Commission at its office at 1026 Sumter Street, Suite 101, Columbia, South Carolina 29201.

65-220. Complaints.

At 65-220(D)(a), replace the mailing address with the current street address of the Commission. The change should read:

D. Where to file complaints.

(a) Aggrieved persons may file complaints in person with, or by mail to: South Carolina Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, South Carolina 29201.

12 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION

NOTICE OF GENERAL PUBLIC INTEREST

10-41. Board of Examiners in Speech-Language Pathology and Audiology.

The Department of Labor, Licensing and Regulation elected to terminate the promulgation process on Regulation Document No. 4762, relating to reinstatement fees for licensees of the Speech-Language Pathology and Audiology Board, so that it could publish a revised Drafting Notice and Proposed Regulation to correct a scrivener's error in the aforementioned document.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

NOTICE OF GENERAL PUBLIC INTEREST

79-42. Manufactured Home Installation Requirements.

The Department of Labor, Licensing and Regulation elected to terminate the promulgation process on Regulation Document No. 4797, relating to manufactured home installation and conformance with Federal requirements set forth by the Department of Housing and Urban Development.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BUILDING CODES COUNCIL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING

The South Carolina Department of Labor, Licensing and Regulation and the Building Codes Council do hereby give notice under Section 6-9-40(A)(3) and (4), of the 1976 Code of Laws of South Carolina, as amended, that a public hearing will be held on June 26, 2018, at 10:00 a.m. at the South Carolina Fire Academy in the Denny Auditorium, 141 Monticello Trail, Columbia, SC 29203, at which time interested persons will be given the opportunity to appear and present views to the Council's appointed Study Committee on the following building codes for use in the State of South Carolina.

Mandatory codes include the:

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

Permissive codes include the:

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

Any person who wishes to appear before or provide evidence or comments to the committee, or both, must submit a written notice of his or her intention to appear before the Study Committee to Roger K. Lowe, Administrator of the Building Codes Council, at the physical address stated below, or to Mr. Lowe at the email address also provided below, by or before June 24, 2018 at 5:00 p.m.

Roger K. Lowe
S.C. Building Codes Council
SC Department of Labor, Licensing and Regulation
PO Box 11329
Columbia, SC 29211-1329
Roger.Lowe@llr.sc.gov

If any person chooses not to attend the hearing but wishes to submit evidence or comments for the Committee's consideration, the evidence or comments should be sent to the same addresses provided above by or before June 24, 2018, at 5:00 p.m.

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

NOTICE OF GENERAL PUBLIC INTEREST

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

Mandatory codes include the:

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

Permissive codes include the:

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

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

14 DRAFTING NOTICES

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-63-210 et seq.

Notice of Drafting:

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.

Interested persons may submit their comments in writing to Dr. Sabrina Moore, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Room 805, Columbia, South Carolina 29201 or by e-mail to smoore@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on June 25, 2018.

Synopsis:

Regulation 43-279, Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts, establishes expectations for student conduct in South Carolina and outlines possible sanctions. It is being amended to clarify the basic enforcement procedures associated with all levels of student misconduct and the possible sanctions associated with criminal conduct.

Legislative review is required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 5-7-12, 16-17-420, 59-5-60, and 59-5-65

Notice of Drafting:

The State Board of Education proposes to amend R.43-210, School Resource Officers.

Interested persons may submit their comments in writing to Dr. Sabrina Moore, Director, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Room 805, Columbia, South Carolina 29201 or by e-mail to smoore@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on June 25, 2018.

Synopsis:

Regulation 43-210, School Resource Officers, establishes a definition of “school resource officers,” along with expectations, roles, and procedures associated with these individuals. It is being amended to clarify SRO training requirements and to ensure that the circumstances under which the SRO should be called are consistent with state law.

Legislative review is required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-104-20

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to revise existing regulation for the Palmetto Fellows Scholarship Program established under Section 59-104-20 Act No. 629. Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on June 29, 2018, the close of the drafting comment period.

Synopsis:

The Commission on Higher Education proposes to amend R.62-300 through R.62-375 regarding the Palmetto Fellows Scholarship Program. Revisions to the existing regulation are being considered to update the policies and procedures for administering the program. In the proposed amendments, the application process will be revised, to include the opening, closing, and final test administration dates. Other changes to the regulation include updating of definitions, minor language changes to promote consistency, and adjustments to the initial enrollment requirement.

Legislative review of this proposal will be required.

16 PROPOSED REGULATIONS

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

37-025. Denial of Certification for Misconduct.

Preamble:

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

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

Section-by-Section Discussion

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

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on July 25, 2018 to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to James M. Fennell, Chief General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on July 23, 2018. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on July 25, 2018, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no fiscal impact from this change.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

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

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

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

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

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

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

Statement of Rationale:

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

Text:

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

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

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

Preamble:

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

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

Section-by-Section Discussion

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

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Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on July 25, 2018 to be held in the Clifford A. Moyer Conference Room, which is room 150 of the main administrative building, at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to James M. Fennell, Chief General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on July 23, 2018. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on July 25, 2018, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be no fiscal impact from this change.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATON:

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

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

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

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

The proposed changes is to further define misconduct for the withdrawal of certification of law enforcement officers.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

Statement of Rationale:

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

Text:

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

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Document No. 4775

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 13

Statutory Authority: 1976 Code Sections 35-11-100 et seq.

Synopsis:

The Office of the Attorney General proposes to promulgate regulations to implement the South Carolina Anti-Money Laundering Act. These regulations include how to obtain a money transmission license in South Carolina. The Notice of Drafting regarding these regulations was published on June 23, 2017, in the *State Register*.

Instructions:

The Regulations should be placed in Chapter 13 of the Code of State Regulations. The Regulations should be placed as Article 4 immediately following Article 3, Tobacco Enforcement. These Regulations should be published as Article 4, Money Services.

Text:

ARTICLE 4 MONEY SERVICES

SUBARTICLE 1 GENERAL PROVISIONS

13-2101. Definitions.

When the terms listed below are used in this Article, or in order to assist in interpreting and complying with the South Carolina Anti-Money Laundering Act, the following definitions shall apply, unless a contrary definition is expressly provided or clearly required by the context, to the extent that they do not conflict with the definitions set forth in the Act:

A. Act. The term “Act” means the South Carolina Anti-Money Laundering Act, Section 35-11-100 et seq., as the same may be codified and amended from time to time.

B. Audited financial statement. The term “audited financial statement” means a financial statement prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant according to generally accepted auditing standards in the United States.

C. Currency Exchange. The term “Currency Exchange” means receipt of revenues from the exchange of money of one government for money of another government, or holding oneself out as able to exchange the money of one government for money of another government. The following do not fall under the definition of currency exchange:

(1) affiliated businesses that engage in currency exchange for a business purpose other than currency exchange;

(2) a person who provides currency exchange services for a person acting primarily for a business, commercial, agricultural, or investment purpose when the currency exchange is incidental to the transaction;

(3) a person who deals in coins or a person who deals in money whose value is primarily determined because it is rare, old, or collectible; and

(4) a person who in the regular course of business chooses to accept from a customer the currency of a country other than the United States in order to complete the sale of a good or service other than currency exchange, that may include cash back to the customer, and does not otherwise trade in currencies or transmit money for compensation or gain.

D. Net Worth. For the purposes of Section 35-11-230, “net worth” shall be determined as tangible net worth, the physical net worth of a licensee calculated by taking a licensee’s assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property, and goodwill.

E. NMLS. The term “NMLS” means the Nationwide Multistate Licensing System and Registry.

**SUBARTICLE 2
MONEY TRANSMISSION LICENSES**

13-2201. Application for Money Transmission License.

A. All applications for new or renewal licenses must be made through the NMLS, unless otherwise expressly exempted from this requirement by the Commissioner in writing. Any person using the NMLS shall pay all associated costs.

B. An application pursuant to Section 35-11-205 should include the following additional information:

(1) a certificate of authority from the South Carolina Secretary of State to conduct business in this State, or other evidence of the applicant’s registration or qualification to do business in this State as a foreign corporation, if incorporated in another state or country;

(2) a copy of the applicant’s anti-money laundering compliance program and Bank Secrecy Act policy;

(3) a detailed description of the screening process used by the applicant in selecting authorized delegates, including a sample of any forms used, and the method used to screen for criminal history; and

(4) the applicant, and each Control Person and Executive Officer, shall furnish to the NMLS, together with the required fees:

(a) fingerprints for submission to the Federal Bureau of Investigation and to any other governmental agency or entity authorized to receive such information for a state, national, or international criminal history background check, and authorization for the Commissioner to obtain a criminal history background check; and

(b) authorization for the Commissioner to obtain an independent credit report and credit score from a consumer reporting agency.

C. Incomplete application files will be closed and deemed denied without prejudice, and all fees paid forfeited, when the applicant has not submitted information requested by the Commissioner within forty-five days. The applicant may reapply by submitting a new application package and new application fee.

D. No later than forty-five days after the calendar quarter has ended, licensees shall file the Money Services Businesses Call Report through the NMLS.

13-2202. Application for Approval to Engage in Money Transmission.

A. A person seeking approval to engage in money transmission and currency exchange activities under Section 35-11-210 without obtaining a license from the Commissioner must submit to the Commissioner the following:

(1) the items described in Section 35-11-205(B) and (C), provided however, the Commissioner may waive one or more requirements of subsections (B) a (C) or permit an applicant to submit other information in lieu of the required information;

(2) the items described in Section 35-11-210(A)(2);

(3) evidence that the person holds a license in good standing to engage in money transmissions in at least one other state that has either adopted the Uniform Money Services Act or has money transmission laws that are substantially similar to those of this state; and

(4) evidence that the person has obtained the security required by Section 35-11-215 and that the security is in force, including the amount and type of any excess coverage provided;

B. The Commissioner may deny approval to offer money transmission or currency exchange services under Section 35-11-210 if:

(1) the person fails to comply with this section or Section 35-11-210;

(2) the person, or any of the person’s authorized delegates, are the subject of a negative licensing action in any of the states in which the person is licensed;

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(3) the person is not licensed to provide money transmission services in at least one state that has enacted the Uniform Money Services Act or has money transmission laws that are substantially similar to those of this state;

(4) the Commissioner finds that the person would not qualify for a money transmission license under Section 35-11-220(A)(2) if the person applied for one;

(5) the person has not met the security requirements of Section 35-11-215 or the net worth requirements of Section 35-11-230;

(6) another state has suspended or revoked the person's money transmission license or currency exchange license within the last five years; or

(7) the person knowingly makes a false statement or knowingly submits false information in order to obtain an approval to offer services under Section 35-11-210.

C. Persons approved pursuant to Section 35-11-210 shall comply with the requirements of Section 35-11-225 regarding renewals.

SUBARTICLE 3 CURRENCY EXCHANGE LICENSES

13-2301. Application for Currency Exchange License.

A. All applications for new or renewal licenses must be made through the NMLS, unless otherwise expressly exempted from this requirement by the Commissioner in writing. Any person using the NMLS shall pay all associated costs.

B. In an application pursuant to Section 35-11-305, the applicant, and each Control Person and Executive Officer, shall furnish to the NMLS, together with the required fees:

(1) fingerprints for submission to the Federal Bureau of Investigation and to any other governmental agency or entity authorized to receive such information for a state, national, or international criminal history background check, and authorization for the Commissioner to obtain a criminal history background check; and

(2) authorization for the Commissioner to obtain an independent credit report and credit score from a consumer reporting agency.

C. Incomplete application files will be closed and deemed denied without prejudice, and all fees paid forfeited, when the applicant has not submitted information requested by the Commissioner within forty-five days. The applicant may reapply by submitting a new application package and new application fee.

SUBARTICLE 4 AUTHORIZED DELEGATES (Reserved)

SUBARTICLE 5 EXAMINATIONS, REPORTS, AND RECORDS

13-2501. Public Records.

A. Unless otherwise specified in Section 35-11-530, information subject to public inspection shall be made available in accordance with Section 30-4-10 et seq.

B. For the purposes of Section 35-11-530(B)(6)(b), the Commissioner considers information to be bound separately and marked as 'confidential' if:

(1) the information is filed through the NMLS and the applicant, licensee, or agent submits to the Commissioner a copy of the New Application Checklist with the requested information designated as confidential; or

(2) the information is filed and marked as 'confidential' by any other method that the Commissioner deems acceptable.

SUBARTICLE 6
PERMISSIBLE INVESTMENTS
(Reserved)

SUBARTICLE 7
ENFORCEMENT

13-2701. Hearings on Orders of Suspension or Revocation of Authorized Delegates.

A. A person seeking to apply for relief from a suspension or revocation of designation as an authorized delegate pursuant to Section 35-11-705 may request a hearing on the suspension or revocation by filing a written request for a hearing with the Commissioner not later than the fifteenth day after the date the order of suspension or revocation is served on the person.

B. Unless the Commissioner receives a written request for a hearing not later than the fifteenth day after the order of suspension or revocation is served on the person subject to the order, the order of suspension or revocation of designation as an authorized delegate shall be final as to that person on the sixteenth day after the date the order is served on that person.

SUBARTICLE 8
ADMINISTRATIVE PROCEDURES

13-2801. Interpretive Orders.

A. The Commissioner may issue interpretive orders regarding the Act, the regulations issued thereunder, or any other order issued thereunder. Requests for written interpretations shall be in writing. The request must state or contain:

- (1) the specific section or subsection of the particular statute, regulation, or order to which the request pertains;
- (2) the names of each person and entity involved in the underlying facts;
- (3) a description of the particular situation at hand. Requests must not attempt to include every possible type of situation that may arise in the future. The facts and representations must be specific, not general, and contain all relevant facts;

(4) an indication as to why the requesting party thinks a problem exists, the requesting party's opinion on the matter, and the basis of the opinion, to include any relevant legal analysis; and

(5) if the requesting party seeks confidential treatment, a specific request for confidential treatment and the basis for confidential treatment must be submitted with the request.

B. The Commissioner, in his discretion, may decline to issue orders when the requests do not meet the requirements listed in Subsection A above, or when there is deemed to be sufficient guidance existing on the issue at hand.

Fiscal Impact Statement:

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

Statement of Rationale:

The regulations are being added to implement the South Carolina Anti-Money Laundering Act. During its 2016 session, the General Assembly enacted the South Carolina Anti-Money Laundering Act. The new act was written, in part, to regulate money services businesses and money transmitters who conduct business in the State, and to establish uniformity with other states to the extent practical. Under the South Carolina Anti-Money Laundering Act, the Attorney General is named as Commissioner, and has the responsibility for promulgating rules and regulations that implement the Act.

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Document No. 4807
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27

Statutory Authority: 1976 Code Sections 46-9-40 and 46-9-50

Synopsis:

The State Crop Pest Commission proposes to update and add language regarding the listing of certain plant pests (Emerald Ash Borer and Benghal Dayflower), as well as quarantine areas across the State.

The Notice of Drafting was published in the *State Register* on October 27, 2017.

Instructions:

Add Regulation 27-56 as listed below.

Add Regulation 27-56.1 as listed below.

Add Regulation 27-56.2 as listed below.

Add Regulation 27-56.3 as listed below.

Add Regulation 27-56.4 as listed below.

Add Regulation 27-56.5 as listed below.

Add Regulation 27-56.6 as listed below.

Add Regulation 27-56.7 as listed below.

Add Regulation 27-56.8 as listed below.

Add Regulation 27-56.9 as listed below.

Add Regulation 27-56.10 as listed below.

Add Regulation 27-56.11 as listed below.

Add Regulation 27-57 as listed below.

Add Regulation 27-57.1 as listed below.

Add Regulation 27-57.2 as listed below.

Add Regulation 27-57.3 as listed below.

Add Regulation 27-57.4 as listed below.

Add Regulation 27-57.5 as listed below.

Text:

27-56. Benghal Dayflower Quarantine.

56.1. Definitions.

- A. "Certificate" means a document, electronic or otherwise, issued or authorized to be issued by an inspector to allow the movement of regulated articles to any destination.
- B. "Compliance agreement" means a written agreement between an individual or concern engaged in growing, dealing in, or moving regulated articles and the South Carolina Crop Pest Commission, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of benghal dayflower.
- C. "Crop" means a cultivated plant or plants grown as food for sale or use in producing another food product.
- D. "Exemptions" means conditions contained in a regulation supplemental hereto which provide for modifications in conditions of movement of regulated articles from regulated areas under specific conditions.
- E. "Farm Tool" means any device not motor-driven used in any process on lands purposed for production agriculture.
- F. "Infested area" means any area designated by an inspector where benghal dayflower or the existence of circumstances that make it reasonable to believe that benghal dayflower is present.
- G. "Inspector" means any authorized employee of the South Carolina Crop Pest Commission to enforce the provisions of the quarantine and regulations supplemental thereto.
- H. "Mechanized equipment" means motor-driven equipment used for cultivating, planting, or harvesting purposes, including but not limited to turning, disc plows, no-till planters, tractors, combines and other harvesters, or to move or transport soil, including but not limited to draglines, bulldozers, road scrapers and dump trucks.
- I. "Quarantined area" means the designated area set by the South Carolina Crop Pest Commission to isolate all known occurrences of the benghal dayflower in one geographical area.
- J. "Regulated Articles" means those articles that require a certificate year-round except as indicated.
- K. "Scientific Permit" means a document, electronic or otherwise, issued by the Director, or his designee, to allow the movement or use of regulated articles, not otherwise eligible for movement or use, for experimental or scientific purposes.
- L. "Soil" means that part of the upper layer of earth in which plants can grow.

56.2. Regulated Articles.

- A. The benghal dayflower (*Commelina benghalensis*) in any living stage of development including seeds, vegetative growth, roots and stolons.
- B. Soil, whether on commodities, seed or equipment, mulch, compost, decomposed manure, humus, muck and peat, separately or with other things, sand, and gravel from infested areas.
- C. Any crop above ground or below, including hay, grown and harvested from infested areas.
- D. Any farm tool, including hand tools, crates, boxes, burlap bags, and other farm product containers used in planting, growing, or harvesting of crops in or from infested areas.
- E. Mechanized equipment used for cultivating, planting, harvesting, or moving soil in or from infested areas.
- F. Any other products, articles, or means of conveyance, including livestock, of any character whatsoever, not covered by the above when it is determined by an inspector that they present a hazard of spread of benghal dayflower and the person in possession thereof has been so notified.

56.3. Conditions Governing the Movement of Regulated Articles.

- A. Certificate is required. Unless exempted in a regulation supplemental hereto, a certificate shall accompany the movement of regulated articles from any regulated area into or through any point outside thereof, except that, regulated articles originating outside of a regulated area moving through a regulated area to other nonregulated areas may be moved without a certificate or permit if the point of origin is clearly indicated on the shipping document accompanying the regulated articles and they are protected from infestation while within regulated areas, to the satisfaction of an inspector.

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B. Attachment of certificates. When certificates are required, they shall be securely attached to the outside of the container in which the articles are moved except where the certificate is attached to the shipping document and the regulated articles are adequately described in the shipping document or on the certificate, the attachment of the certificate to each of the containers is not required. Tractors and other slow-moving farm equipment do not require attachment of certificates if traveling within a 25-mile radius of main farm.

C. Issuance of certificates. Certificates may be issued by an inspector if the regulated articles:

(1) Have originated in non-infested areas in the quarantined area and have not been exposed to infestation while within the quarantined area; or

(2) Have been treated to destroy infestation in accordance with approved procedures thereof; or

(3) Have been grown, harvested, manufactured, stored or handled in such manner that no infestation would be transmitted thereby.

D. Requirements under other applicable quarantines must also be met.

56.4. Disposition of Certificates.

In all cases, certificates shall be furnished by the carrier to the consignee at the destination of the shipment.

56.5. Movement for Scientific Purposes.

Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions provided an approved scientific permit is securely attached to the container of such articles or to the article itself.

56.6. Compliance Agreement.

As a condition of issuance of certificates for the movement of regulated articles, any person, including lessors and lessees, engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating or moving such articles may be required to sign a compliance agreement stipulating that he/she will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

56.7. Inspection and Disposal.

Any properly identified state inspector is authorized to stop and inspect, without a warrant, any person or conveyance moving within or from the State of South Carolina upon probable cause to believe that such means of conveyance or articles are infested with the benghal dayflower; and, such inspector is authorized to seize, treat, destroy or otherwise dispose of articles found to be moving in violation of these regulations.

56.8. Disclaimer of Liability.

The South Carolina Crop Pest Commission disclaims liability for any cost incident to inspection or treatment required under the provisions of the quarantine, other than for the services of the South Carolina Crop Pest Commission.

56.9. Penalties.

Any person who shall violate this regulation shall be punished as authorized and set forth by the provisions in Section 46-9-90.

56.10. Exemptions to Regulated Articles.

A regulated article may be exempt if article(s) is/are:

A. Soil samples of any size collected and shipped to State Crop Pest Commission-approved soils laboratory.

B. Soil in form of typical waste material collected during harvest including but not limited to residue, dust, rocks, or damaged crop materials.

C. Any crop washed free of soil and plant material with running water.

D. Farm tools cleaned free of soil and plant material and not exposed to infested areas after cleaning or other prescribed handling.

E. Mechanized equipment cleaned free of soil and plant material and not exposed to infested areas after cleaning or other prescribed handling.

56.11. Regulated Areas. The official listing of quarantined areas in SC shall be maintained and made publicly available on Clemson’s website located at: www.clemson.edu/invasives.

27-57. Emerald Ash Borer Quarantine.

57.1. Definitions.

A. “Certificate” means a document, electronic or otherwise, issued or authorized to be issued by the Department, state, or USDA-APHIS inspector to allow the movement of regulated articles to any destination.

B. “Compliance agreement” means a written agreement between an individual or concern engaged in growing, dealing in, or moving regulated articles and a state or USDA-APHIS, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of emerald ash borer.

C. “Department” means the Clemson University Department of Plant Industry, or its representatives, acting on behalf of the South Carolina Crop Pest Commission or the Director and acting as the plant regulatory representative of South Carolina.

D. “Director” means the Director of Regulatory and Public Service Programs at Clemson University.

E. “Emerald ash borer” (EAB) means the insect known as emerald ash borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development.

F. “Firewood” means any wooden material that is gathered and used for fuel when species present are not labeled and/or readily identifiable.

G. “Inspector” means any authorized employee or agent of the State Crop Pest Commission, state, or USDA-APHIS, or any other person authorized by the Director to enforce the provisions of these regulations.

H. “Moved” means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

I. “Movement documents” means any certificates and/or compliance agreements applicable to these regulations issued by the Department, state, or USDA-APHIS representatives.

J. “Nursery stock” means all fruit, nut and shade trees, all ornamental plants and trees, bush fruits, buds, grafts, scions, vines, roots, bulbs, seedlings, slips or other portions of plants (excluding true seeds) grown or kept for propagation, sale or distribution. Also includes any other plant included by the Director, if regulating its movement is necessary to control any plant pest.

K. “Person” means any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

L. “Quarantined area” means the designated area set by the South Carolina Crop Pest Commission to isolate all known occurrences of the emerald ash borer in one geographical area.

M. “Regulated Articles” means those articles that require a certificate year-round except as indicated.

N. “State” means a state’s plant regulatory representative, usually a Department of Agriculture, in any state.

O. “USDA-APHIS” means the United States Department of Agriculture’s Animal and Plant Health Inspection Service.

57.2. Regulated Articles.

A. The emerald ash borer.

B. Firewood of all hardwood (non-coniferous) species.

C. Nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*.

D. Any other article, product, or means of conveyance not listed in paragraph (2) of this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

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57.3. Conditions Governing the Movement of Regulated Articles.

A. Regulated articles may not at any time be moved from quarantined parts of South Carolina or any other state into or through non-quarantined parts of South Carolina or any other state without a state- or federally-issued certificate and/or compliance agreement allowing for such movement provided that no other state or federal provisions prevent it.

B. Regulated articles may be moved from quarantined parts of South Carolina or any other state into or through quarantined parts of South Carolina or any other state without state- or federally-issued certificates and/or compliance agreements provided that no other state or federal provisions prevent it.

57.4. Issuance of Movement Documents.

A. Certificates - An inspector from the Department, state, or USDA-APHIS, or its representatives, will issue certificates for movement of regulated articles when it has been deemed that EAB is not apparently present and risk of movement of EAB from a quarantined area to a non-quarantined area has been mitigated.

B. Compliance Agreements - The Department, state, or USDA-APHIS may enter into compliance agreements with persons growing, handling, or moving regulated articles once an inspector has reviewed all provisions of the compliance agreement and each agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

C. Attachment – Movement documents must be attached to or accompany shipments of all regulated articles or containers carrying regulated articles and such articles must be clearly marked with the name and address of the consignor and consignee.

D. Cancellation – Certificates and/or Compliance Agreements may be canceled orally or in writing by an inspector or representative of the Department, state, or USDA-APHIS whenever the inspector determines that the holder of the certificate or compliance agreement has not complied with this subpart or any conditions imposed under this subpart.

57.5. Regulated Areas.

The entire state of South Carolina is quarantined for emerald ash borer. The official listing of quarantined areas in South Carolina shall be maintained and made publicly available on Clemson’s website located at: www.clemson.edu/invasives.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulation changes will increase efficiency and accuracy for both the general public and Clemson officials as it relates to the management of plant pests Emerald Ash Borer and the Benghal Dayflower. Without implementation of the proposed regulations, the economic impacts of failing to manage these devastating plant pests to both the forestry and agriculture industries could be significant.

Document No. 4808

CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

- 27-160. Plant Nursery Regulations.
- 27-161. Nursery Registration.
- 27-162. Nursery Dealer.
- 27-163. Nursery Stock Shipment.
- 27-164. Penalties.

Synopsis:

The State Crop Pest Commission proposes to provide clarifying language regarding the regulation of nursery plant shipments and fees for nursery dealers in South Carolina in response to recent statutory amendments made to the enabling legislation in the 2017 legislative session.

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

Instructions:

Replace and add new text to Regulation 27-160. Plant Nursery Regulation as listed below.
 Replace and add new text to Regulation 27-161. Nursery Grower Certification Process as listed below.
 Replace and add new text to Regulation 27-162. Nursery Dealer Certification Process as listed below.
 Replace and add new text to Regulation 27-163. Nursery Stock Shipment as listed below.
 Replace and add new text to Regulation 27-164. Penalties as listed below.

Text:

27-160. Plant Nursery Regulation.

A. Definitions

- (1) Application: The process of notifying the Department of Plant Industry that certification is needed and fulfilling all other Department requirements associated therewith.
- (2) Certification: The successful completion of the Application, Inspection, and Registration processes by the Nursery Grower or Nursery Dealer as required by the Department in order to obtain a Nursery Grower or Nursery Dealer Certificate.
- (3) Department: The Department of Plant Industry (DPI).
- (4) Director: The Director, Regulatory and Public Service Programs, Clemson University.
- (5) Greenhouse: A building, room, or area, where the temperature and/or climate is maintained and is used for growing, propagating and/or maintaining nursery stock for sale.
- (6) Infestation: The presence of any plant pests which is regarded as injurious or noxious.
- (7) Inspector: Any authorized employee or agent of the State Crop Pest Commission or any other person authorized by the Director to enforce the provisions of these regulations.
- (8) Inspection: The physical observation by the Department of Plant Industry to verify freedom of plant pests, condition of general environment, and compliance with all relevant State and Federal regulations and/or laws.
- (9) Location: Any place where nursery stock is grown, collected or distributed.
- (10) Nursery: Any place where nursery stock is either grown for sale or distributed.
- (11) Nursery Certificate Tag: A document issued by the Department which accompanies individual shipments of Nursery Stock and declares apparent freedom from major plant pests and compliance with all relevant state and federal quarantines.
- (12) Nursery Grower: Any person who grows Nursery Stock for sale or distribution.
- (13) Nursery Grower Certificate: A document issued by the Department or the equivalent agency of another state, declaring that the Nursery Stock grown for sale or distribution and the Person named on the document have met all requirements of the Nursery Grower Certification Process.
- (14) Nursery Grower Hobbyist: Any Nursery Grower who has less than \$5,000 in gross annual sales. Hobbyists are exempt from registration fees.
- (15) Nursery Dealer: Any person not a Nursery Grower who buys Nursery Stock for resale and any Nurseryman who operates a sales lot separately from his nursery.
- (16) Nursery Dealer Certificate: A document issued by the Department, or the equivalent agency of another state, declaring that the Nursery Stock being sold and the Person named on the document have met all requirements of the Nursery Dealer Certification Process.

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(17) Nursery Dealer Hobbyist: Any Nursery Dealer having less than \$10,000 in gross annual sales. Hobbyists are exempt from registration fees.

(18) Nurseryman: Any Person engaged in the production or collection of nursery stock for sale or distribution.

(19) Nursery Stock: All trees (fruit, nut, shade and ornamental), ornamental plants, turfgrass, bush fruits, buds, grafts, scions, vines, roots, bulbs, seedlings, slips, tissue culture or other portions of plants (excluding true seeds) grown, collected or kept for propagation, sale or distribution. Also includes any other plant or plant part included by the Director, if regulating its movement is necessary to control any plant pest.

(20) Person: Individual, firm, corporation, partnership, association, state and federal agencies, schools, groups, or organizations.

(21) Plant Pest: Any living stage of insects, mites, nematodes, slugs, animals, protozoa, snails or other invertebrate animals, bacteria, weeds, fungi, other parasite plants or their reproductive parts, or viruses, or organisms similar to or allied with the foregoing, including genetically engineered organisms or infectious substances which directly or indirectly may injure or cause disease or damage in plants or their parts or processed, manufactured, or other products of plants, and which may be a serious agricultural threat to the State, as determined by the Director.

(22) Quarantine: Limitations by the Department on the free movement of plant pests, animals, plants, equipment, machinery, goods, genetically engineered organisms, or means of transportation, or all of the foregoing, considered by the Department to be reasonably necessary to prevent the spread of a plant pest.

(23) Registration: The determination of the regulated fee schedule category and the collection of applicable fees by the Department.

(24) Turfgrass: The top layer of earth comprised of grass leaf blades, stolons, thatch, and roots grown for commercial harvesting and sale as sod, sprigs, or any other part thereof, excluding seed.

27-161. Nursery Grower Certification Process.

Nursery Grower Certificates are required for all Nurseries defined as Nursery Growers. The Nursery Grower Certification Process requires successful completion of the Application, Inspection, and Registration sections below for all Nursery Growers.

A. Application

To obtain a Nursery Grower Certificate, application must first be made to the Department. First time and expired Nursery Growers requesting a Nursery Grower Certificate must notify the Department for Application information. Nurseries with a current Nursery Grower Certificate will automatically receive renewal information from the Department annually.

B. Inspection

All applicants in South Carolina must be inspected *at least annually* by the Department. Inspection must reveal that the Nursery possesses acceptable environmental conditions and that the Nursery Stock is sufficiently free from Plant Pests as determined by the Inspector. All inspections, announced or otherwise, shall be performed to ensure compliance with these regulations and all other applicable state and federal regulations and laws. Should the Nursery Stock not be made available for annual inspection or if the inspection reveals unacceptable environmental conditions and/or Plant Pests at an unacceptable level, the Nursery Grower Certificate may be revoked until the situation is corrected per the guidelines of the Department.

C. Registration

All Nursery Growers in South Carolina are subject to Registration and applicable fees by the Department unless exempt elsewhere in this regulation. Nursery Grower registration fees shall be on a graduated scale. All Nursery Grower Certificates expire annually. If Nursery Stock is grown at more than one location by the same Nursery Grower, the fees shall be based upon the nursery's aggregate number of acres and/or greenhouse square footage in production of the nursery. In cases where the Nursery consists of a combination of greenhouses, turfgrass, and other nursery stock acreage, a single license fee must be assessed at the higher rate of the three categories.

The following annual Nursery Grower Registration fee schedule is in effect:

- (1) Nursery stock (except turfgrass) with a production acreage of 10 or less; greenhouses with less than 6,000 square feet; or a turfgrass production acreage of 250 or less shall be \$75.00.
- (2) Nursery stock (except turfgrass) with a production acreage of 11 to 25; greenhouses with 6,000 to 30,000 square feet; or a turfgrass production acreage of 251 to 500 shall be \$125.00.
- (3) Nursery stock (except turfgrass) with a production acreage of 25 or more; greenhouses with more than 30,000 square feet; or a turfgrass production acreage of 501 or more shall be \$ 200.00.

Nursery Growers who produce transplants or seedlings grown solely for the purpose of being distributed for production of agricultural commodities must complete Registration with the Department but are exempt from nursery registration fees. If Nursery Stock is grown in conjunction with the aforementioned category of plants, the Nursery will remain subject to the fee schedule of this section.

Nursery Grower Hobbyists are required to produce sales records to the Department upon request and will remain subject to all other requirements of this section.

The Forestry Commission and governmental and nonprofit organizations which are not in the business of commercial sale of nursery stock are exempt from the fees required by registration, but will remain subject to all other requirements of this section. All persons selling cut Christmas trees from November to January who are not otherwise required to adhere to this section are exempt from the requirements of this section.

27-162. Nursery Dealer Certification Process.

Nursery Dealer Certificates are required for all Nurseries defined as Nursery Dealers. The Nursery Dealer Certification Process requires successful completion of the Application, Inspection, and Registration sections below for all Nursery Dealers.

A. Application

To obtain a Nursery Dealer Certificate, application must first be made to the Department. The Nursery Dealer Certificate application requires a list of all nursery stock sources and all South Carolina sales locations. A separate Nursery Dealer Certificate is required for each sales location. Nursery Stock Sources must be verified by the Department as being certified/licensed nurseries or dealers in their state of origin. All Nursery Dealers with a current Nursery Dealer Certificate will automatically receive renewal information from the Department annually.

B. Inspection

Inspections for Nursery Dealers holding a Nursery Dealer Certificate in South Carolina will be conducted, announced or otherwise, as deemed necessary by the Department. Inspection must reveal that the Nursery Dealer possesses acceptable environmental conditions and the Nursery Stock is sufficiently free from Plant Pests as determined by the Inspector. All inspections shall be performed to ensure compliance with these regulations and all other applicable state and federal regulations and laws. Should the nursery stock not be made available for inspection or if the inspection reveals unacceptable environmental conditions and/or Plant Pests at an unacceptable level, the Nursery Dealer Certificate may be revoked until the situation is corrected per the guidelines of the Department.

C. Registration

All Nursery Dealers in South Carolina are subject to Registration and applicable fees by the Department unless exempt elsewhere in this regulation. Nursery Dealer registration fees shall be on a graduated scale and Nursery Dealer Certificates expire annually. If Nursery Stock is sold at more than one location by the same Nursery Dealer, applicable Registration fees shall apply per location. Nursery Dealers must produce sales records to the Department upon request.

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The following annual Nursery Dealer Registration fee schedule is in effect:

- (1) Nursery Dealer locations for which annual gross sales equal \$10,000.00 or less shall pay \$0.00.
- (2) Nursery Dealer locations for which annual gross sales are between \$10,001.00 and \$100,000.00 shall pay \$50.00.
- (3) Nursery Dealer locations for which annual gross sales are over \$100,000.00 shall pay \$100.00.

Nursery Dealer Hobbyists are exempt from Registration fees, but are still subject to all other parts of this Regulation.

27-163. Nursery Stock Shipment.

Nursery Stock shipment to and from Nursery Growers and Nursery Dealers in South Carolina must adhere to all requirements of this section. Nursery Certificate Tags, whether self-printed by the Nursery or pre-printed by the Department, must meet Department standards for issuance and use. Nurseries must have a current Nursery Grower Certificate or Nursery Dealer Certificate and meet the requirements of these regulations and all other applicable state and federal regulations and laws, as determined by the Department, before applying for Nursery Certificate Tags.

A. Nursery Certificate Tags Request

Nursery Grower and Nursery Dealer shipments of Nursery Stock must have attached a Nursery Certificate Tag. Requests for Nursery Certificate Tags must be made to the Department.

B. Nursery Certificate Tags Usage

A current Nursery Certificate Tag approved by the Department must accompany appropriate shipments of Nursery Stock. The usage of Nursery Certificate Tags for the shipment of Nursery Stock not meeting the requirements of this section is in violation of this section.

C. Nursery Certificate Tags Acquisition and Cost

Successful completion of the Certification Process and payment of applicable fees is required prior to any Nursery Certificate Tag issuance and/or use. The Department provides two options for obtaining Nursery Certificate Tags:

1. Department-printing on a cost-reimbursement basis can be requested by the Nurseryman. Upon request, Nursery Certificate Tags will be printed by the Department and shipped to the Nurseryman. A price list may be obtained from the Department upon request.

2. Self-printing of Nursery Certificate Tags may be approved upon written request to the Department and all costs associated with will be at the expense of the Nursery Grower or Nursery Dealer. Prior to approval of self-printing, Department requirements regarding language and symbol use, and size of tags used must be met.

D. Out of State Nursery Growers and Nursery Dealers

1. Nursery Growers and Nursery Dealers with all locations occurring outside of South Carolina shall not be required to attach a Department-issued Nursery Certificate Tag to shipments coming into this State, nor to file duplicate invoices of such shipment (except **Prunus** spp. – see below) nor to pay a Registration fee, provided like privileges are accorded South Carolina nurserymen when making shipments into other states.

2. Each vehicle, package, box, bundle or container of nursery stock originating outside of South Carolina and being moved into South Carolina for customer delivery or for resale must have attached to it a valid Nursery Certificate Tag from the state or country of origin stating in effect that the nursery stock being moved has been inspected and certified by an authorized official as apparently free of Plant Pests. Any shipment of nursery stock entering South Carolina not accompanied by such a Nursery Certificate Tag shall be declared a public nuisance and may be returned to the shipper, treated, destroyed or otherwise disposed of by the Department. Any plants moving from outside of South Carolina, whether or not accompanied by a Nursery Certificate Tag, found infested with Plant Pests shall be declared a public nuisance and may be returned to the shipper, treated, destroyed or otherwise disposed of to the satisfaction of the Department.

3. Nurseries growing peach, nectarine, or other **Prunus** spp. Nursery Stock for shipment to commercial growers in South Carolina must, in addition to being certified apparently free of insects and diseases in their state or country of origin, also file or mail an invoice to the Department at the time of shipment showing the following information: (1) name and address of shipper, (2) producer of stock, if different from shipper, (3) date of shipment, (4) name and address of purchaser, and (5) name and address of receiver, if different from purchaser.

27-164. Penalties.

Any person who violates the provisions of these regulations shall become subject to a stop sale, use, or distribution order pursuant to 46-33-100.

Fiscal Impact Statement:

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

Statement of Rationale:

Clarification to certain terms and their applications are needed in order to effectively interpret recent changes to the enabling statute, which occurred during the 2017 Legislative session. These proposed updates should provide clarification and allow greater efficiency, by all affected parties subject to these plant nursery regulations.

Document No. 4732

DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 28

Statutory Authority: 1976 Code Sections 37-2-305, 37-3-305, 37-6-104, 37-6-402, 37-6-403, and 37-6-506

28-4. Method of Operations.

28-6. Application of Federal Truth in Lending Act.

28-9. Other Cases - Summary Procedure.

28-30. Delinquent Notification Filing and Fee Payment.

28-70. Filing and Posting Maximum Rate Schedules.

Synopsis:

The department proposes to amend Regulations 28-4, 28-6, 28-9, 28-30, and 28-70. The purposes of these proposed amendments are to revise and edit regulatory language to conform to current operations and statutory requirements as well as to delete obsolete provisions. South Carolina Code sections 37-6-104 and 37-6-403 authorize the department to promulgate regulations necessary to effectuate the purposes of the chapter.

Notice of Drafting for the proposed regulations was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation. The proposed regulation was published in the *State Register* on November 25, 2016.

Instructions:

Amend Regulations 28-4, 28-6, 28-9, 28-30, and 28-70 as indicated below.

28-4 No changes.

28-4(A) Revised to correct number and names of Department Divisions.

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- 28-4(A)(1) Revised language to conform with current Administration Division functions.
- 28-4(A)(2) Revised language to conform with current Consumer Services Division functions.
- 28-4(A)(3) Revised language to conform with current Advocacy Division functions.
- 28-4(A)(4) Revised subsection to describe the Public Information and Education Division.
- 28-4(A)(5) Added a new subsection to describe the Identity Theft Unit.
- 28-4(A)(6) Subsection relabeled. Previously was 28-4(A)(4). Also revised for accuracy and statutory changes.
- 28-4(B) No changes.
- 28-4(B)(1) Added language for complaint filing method.
- 28-4(B)(2) Revised language to conform with Department information request policy.
- 28-4(B)(3) No changes
- 28-4(B)(4) No changes
- 28-4(B)(5) Revised Division name.
- 28-4(B)(6) No changes
- 28-6(A) No changes.
- 28-6(B) Deleted incorrect reference to promulgating agency.
- 28-9(A) Clarified topics for which an informal complaint may be made.
- 28-9(B) Revised language to include reference to Record Retention Policy.
- 28-9(C) Revised language to more accurately reflect Department's authority.
- 28-9(D) No changes.
- 28-9(D)(1) Revised language to clarify settlement agreements are permitted.
- 28-9(D)(2) No changes.
- 28-9(D)(3) No changes.
- 28-9(D)(4) No changes.
- 28-9(D)(5) No changes.
- 28-9(D)(6) Added new subsection o reference criminal authority.

- 28-9(D)(7) Added new catchall section to reflect Department authority outside of Consumer Protection Code.
- 28-9(E) No changes.
- 28-30(A) Revised grace period downward.
- 28-30(B) Revised language to reflect Department’s statutory enforcement authority.
- 28-30(C) Revised credit grantor notification late penalty structure.
- 28-70(A) Created subsections to reduce language duplication.
- 28-70(A)(1) Added new subsection to reduce language duplication.
- 28-70(A)(2) Deleted duplicate language, revised language to conform to statutory amendments and relocated language relevant to the section’s topic.
- 28-70(B) Added subsection for organization. Relocated language to (A)(2).
- 28-70(C) Created subsections for organization.
- 28-70(C)(1) Added subsections number. Deleted incorrect reference to federal agency.
- 28-70(C)(2) Created new subsection number for organization. No change to language.
- 28-70(C)(3) Created new subsection number for organization. No change to language.
- 28-70(D) Revised language to clarify effective date of maximum rate schedule.
- 28-70(E) No changes.

Text:

28-4. Method of Operations.

A. Functional Areas: The Department of Consumer Affairs is divided into six functional divisions. These are Administration, Consumer Services, Consumer Advocacy, Public Information and Education, Identity Theft Unit and Legal.

(1) Administration: The Administration Division is responsible for providing administrative support to the Department of Consumer Affairs, including procurement, human resources, accounting and information technology. The Administrator position, the officer appointed by the Commission on Consumer Affairs to administer Title 37 and other statutes falling within the Department’s authority and otherwise manage the day to day operations of the agency, is located in this Division.

(2) Consumer Services: The Consumer Services Division is responsible for handling consumer complaints. Consumer complaint analysts receive, evaluate and process complaints arising out of the production, promotion or sale of consumer goods or services. Complaints that fall within the jurisdiction of another state or federal agency are referred to such agency. Analysts engage in voluntary complaint mediation of complaints not subject to the jurisdiction of any responsible agency.

(3) Consumer Advocacy: The Consumer Advocacy Division is responsible for evaluating rate and other requests submitted to various regulatory agencies, recommending intervention to the Consumer Advocate, preparing the presentation of the consuming public’s case and representing the public in hearings and in court as appropriate. The Division is also responsible for monitoring regulations of regulatory agencies, reporting on

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their findings and evaluation of the impact of such regulations on the public, and responding to requests for legislative assistance.

(4) **Public Information and Education:** The Public Information and Education Division is the main education portal for businesses and consumers. Communications staff are responsible for coordinating, developing and implementing agency outreach programs, for disseminating information on consumer credit laws, protection, and advocacy matters to the news media and the general public.

(5) **Identity Theft Unit:** The Identity Theft Unit provides education and outreach to consumers on how to deter, detect, and defend against identity theft. Staff assists consumers in mitigating instances of identity theft and provides education to businesses and agencies on complying with state identity theft laws and enforces such statutes.

(6) **Legal:** The Legal Division is responsible for maintaining a constant review of consumer protection law and formulating recommendations for legislative proposals. It is also responsible for providing legal advice and information to the Divisions of the Department of Consumer Affairs, for rule-making and investigations. It monitors rules, regulations, and interpretations of other Code state administrators and of appropriate Federal agencies and formulates appropriate rules, regulations, declaratory rulings and other interpretations of law. This Division is also responsible for conducting litigation and administrative enforcement actions under the provisions of the South Carolina Consumer Protection Code and other statutes enforced by the Department.

B. Public Access: The public has access to the Department of Consumer Affairs in three ways. These are through the complaint procedures, the information procedures and the formal rule-making and petition procedures.

(1) The public has access to the Department through the complaint procedure by virtue of an online complaint system, a statewide toll-free WATS line, or by utilization of the regular telephone network of the Department. Telephone numbers for the WATS line and the regular system are published in the news media and other appropriate informational sources at regular intervals. Informal complaints may also be submitted to the Department in writing either utilizing the Department's regular complaint form or in an appropriate letter or other writing.

(2) Requests for information may be made to the Public Information and Education Division. Any final order, decision, opinion, rule, regulation, written statement of policy or interpretation formulated, adopted or used by the Administrator on the discharge of his functions or any other matter to which the public has access by virtue of the Freedom of Information Act may be inspected at the Office of the Administrator at any reasonable time, during normal office hours. Voluminous requests or requests for material two years old or older may result in a longer response time for retrieval, copying or sorting. Reasonable charges may be imposed to recover expenses of materials and time for retrieval, copying or sorting of information.

(3) All requests for information which require an answer in the nature of an interpretation, statement of official policy or position of the Department must be submitted in writing.

(4) Submissions or suggestions designed to improve the operation of the Department of Consumer Affairs should be submitted in writing to the Office of Administrator of Consumer Affairs, without regard to the division or activity to which they may pertain.

(5) Requests for publications which may from time to time be issued by the Department should be addressed to the Public Information and Education Division. Reasonable charges may be imposed to recover expenses of materials and time for retrieval, copying or sorting of publications.

(6) Requests, submissions or any other communication of any nature may be made in writing to the Office of the Administrator of Consumer Affairs.

28-6. Application of the Federal Truth in Lending Act.

A. All persons upon whom the Federal Truth in Lending Act imposes duties or obligations shall make or give to the consumer the disclosures, information and notices required of him by that Act and in all respects comply with that Act.

B. The term "Federal Truth in Lending Act" means Title I of the Consumer Credit Protection Act [15 U.S.C. Section 1601 et seq.] as amended from time to time and the regulations promulgated thereunder, as amended from time to time.

28-9. Other Cases - Summary Procedure.

A. **Informal Complaint:** Informal complaints pertaining to actions subject to the Department’s jurisdiction may be made to the Administrator in writing and need not be in any particular form. Such matters may be disposed of by correspondence or other informal communication.

B. **Record of Informal Complaints:** A record shall be kept of each informal complaint listing the allegations and all action taken including any final disposition, subject to the Department’s Record Retention Policy.

C. **Investigation:** If it appears from an informal complaint or other information brought to the attention of the Administrator that there is probable cause to believe that a person is committing or has committed an act or omission in violation of the Code, the Administrator may order an investigation to determine if the Act is being or has been committed.

D. **Summary Action:** If, after investigation, the Administrator determines that a person is committing or has committed any act or omission in violation of the Code, he may take one or more of the following actions, as the situation may warrant:

- (1) Enter into an agreement with the person to settle the matter via a non-hearing resolution or otherwise accept an assurance in writing that the person in violation of the Code will not engage in that conduct in the future;
- (2) Bring an administrative action;
- (3) Bring civil action for injunctive relief as provided in Sections 37-6-110, 37-6-111 and 37-6-112 of the Code;
- (4) Bring a civil action as provided in Section 37-6-113 of the Code;
- (5) Bring an individual action for a consumer as provided in Section 37-6-117 of the Code;
- (6) Bring a criminal action as provided in Section 37-6-104 of the Code;
- (7) Engage in an action as permitted by law.

E. **Initiation of Formal Proceedings:** The Administrator may initiate formal or investigative proceedings upon any matter arising out of an informal complaint.

28-30. Delinquent Notification Filing and Fee Payment.

A. Except in the case of willful or repeated violations of Sections 37-6-202 and 37-6-203, notification filings and fees which are not more than 15 days delinquent will be accepted without penalty.

B. Willful or repeated violations will be disposed of pursuant to the provisions of the Code, including Sections 37-6-108, 37-6-110, 37-6-113 (Civil Actions) and 37-6-118.

C. In all other cases delinquent filings must be accompanied by a penalty equal to the amount indicated as follows:

Payment Received	Penalty
16 to 30 days late	50% of delinquent fee
31 to 60 days late	100% of delinquent fee
61 to 90 days late	200% of delinquent fee
91 or more days late	subject to action by the Department

28-70. Filing and Posting Maximum Rate Schedules.

A. Every creditor [Section 37-1-301(13)] other than an assignee of a credit obligation making consumer credit sales [Section 37-2-104] in this State, and intending to impose a credit service charge in excess of 18% per annum in this State, and every creditor [Section 37-1-301(13)] making supervised loans [Section 37-3-501(1)] or restricted loans [Section 37-3-501(3)] in this State, shall:

- (1) file with the Department of Consumer Affairs a rate schedule as shown on the Department’s internet website. The original of the rate schedule shall be filed together with a fee of forty dollars per location, and
- (2) post in one conspicuous place in every place of business in this State in which offers to make consumer credit sales, supervised loans or restricted loans , a maximum rate schedule issued by the Department of Consumer Affairs pursuant to Subsection (A)(1). No posted rate schedule shall contain any statement, stamp of approval, or any language or symbol which suggests or implies that the posted rate(s) are suggested, or

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individually approved by the Department of Consumer Affairs or any other agency of State or Federal government.

(B) A creditor that has issued seller credit cards [Section 37-1-301(26)] or a creditor that has issued lender credit cards or similar arrangements [Section 37-1-301(16)] shall not be required to post a required rate schedule for such transactions in any place of business which is authorized to honor such transactions; provided that the creditor shall include a conspicuous statement of the maximum rate it intends to charge for these transactions in the initial disclosure statement required to be provided for the debtor by the Federal Truth-In-Lending Act and notifies the debtor of any change in the maximum rate on or before the effective date of the change; provided further that a creditor that has issued lender credit cards or similar arrangements shall nevertheless post the required rate schedule for such transactions at its central office (if financial transactions with consumers take place at the central office) and branch offices other than branch offices which are free standing automatic teller machines.

C. (1) The rate schedule required to be filed and posted by Sections A. and B. shall contain a list of the maximum credit service charges [Section 37-2-109] (in the case of consumer credit sales) or maximum loan finance charges [Section 37-3-109] (in the case of supervised or restricted consumer loans) stated as an annual percentage rate, determined in accordance with the Federal Truth-In-Lending Act as amended from time to time, and any regulations promulgated thereunder, including Regulation Z, as amended from time to time, that the creditor intends to charge for consumer credit transactions in each of the following categories of consumer credit:

- (a) Unsecured credit sales or loans;
- (b) Secured credit sales or personal loans, other than those secured by real estate;
- (c) Credit sales secured by real estate or real estate mortgage loans;
- (d) Open-end (revolving) credit;
- (e) All other.

(2) The creditor may include as many subcategories as it chooses under each of the specified categories .

(3) If a creditor with multiple locations wishes to charge different maximum rates for different locations, a separate maximum rate schedule shall be filed for each location which charges maximum rates which vary from the schedule filed and posted for the main or central location.

D. A rate schedule filed shall be effective for all consumer credit extended the date the maximum rate schedule certificate is issued by the Administrator or when the creditor complies with all requirements of 37-2-305 or 37-3-305, as applicable, whichever is later.

E. A rate schedule filed and posted as required by Section 37-2-305, Section 37-3-305, and this Regulation shall remain effective until January 31st of each year. A creditor wishing to change any of the maximum rates shown on a schedule previously filed and posted or to add or delete the prescribed categories or subcategories shall file with the Department of Consumer Affairs a revised schedule together with a fee of forty dollars per location.

Fiscal Impact Statement:

The department estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Rationale:

The South Carolina Consumer Protection Code specifically provides for the Department to promulgate regulations necessary to effectuate the purposes of the Code and these changes are being made to conform regulations to current statutory law.

Document No. 4789
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-25-110, and 59-25-115

43-52. Application for Teaching Credential.

Synopsis:

State Board of Education Regulation 43-52 governs the required application documents, fees, and effective dates of credentials for applicants seeking a South Carolina educator credential. Amendments to Regulation 43-52 will replace outdated document titles and office names, clarify procedures and credential effective dates, and remove references to the federal No Child Left Behind Act of 2001.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on June 23, 2017.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-52. Application for Teaching Credential.

I. Required Documentation

The State Department of Education (SCDE) teacher certification office requires the following forms of documentation from applicants for teacher certification:

- A. Certification Application. The applicant must submit the completed SCDE application for certification.
- B. Recommendation. If applicable, the applicant must ensure submission of a completed educator preparation program verification and certification recommendation form, signed by the dean or other designated official of the educator preparation provider.
- C. College and University Transcripts. The applicant must submit complete and official transcript(s) for each institution attended. Each transcript must bear the official seal of the institution, the signature of the designated official, the type of degree earned, if any, and the date awarded. Only official transcripts will be accepted for certification purposes. Transcripts submitted electronically from the individual institution or through an SCDE-approved transcript or credential service will be accepted.
- D. Examination Scores. The applicant must submit scores on the required teaching area examination(s) and assessment of general professional knowledge (pedagogy) as adopted by the State Board of Education (SBE) for purposes of certification. Only official score reports transmitted by the testing agency will be accepted.
- E. Educator Experience Verification. The applicant must submit appropriate verification of previous teaching and/or educator experience.
- F. Federal and State Criminal Records Check. The applicant must undergo a state criminal records check by the South Carolina Law Enforcement Division (SLED) and a national criminal records check supported by fingerprints and conducted by the Federal Bureau of Investigation (FBI). If the applicant does not complete the

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initial certification process within eighteen months from the original date of application, the fingerprint process required for the state and national criminal records check must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the SBE and be approved before a certificate can be issued to them. The fingerprinting process must be completed through the approved State vendor. Background checks from other states or agencies are not transferable and cannot be accepted for certification purposes in South Carolina.

G. Out-of-State Credential. If the applicant is applying for a South Carolina certificate based on educator certification in another state or jurisdiction, the educator must provide a copy of the current, valid out-of-state credential.

II. Application and Evaluation Fee

The applicant must submit to the SCDE teacher certification office a nonrefundable fee for the evaluation and processing of each of his or her applications.

III. Effective Date of Credential

The effective date of the credential will be based upon the date of receipt by the SCDE teacher certification office of the complete certification application with all required supporting documentation and/or request for additional area(s) of certification, certificate renewal, or certificate advancement. An incomplete application will be considered active for a period of twelve months. If after twelve months the applicant has not submitted all required documentation, the application will be archived.

A. Certificates for Educator Preparation Program Completers

If an applicant completes an educator preparation program to become eligible for a South Carolina educator certificate between May 1 and November 1, the effective date of the credential is July 1 of that year.

If an applicant completes an educator preparation program to become eligible for a South Carolina educator certificate after November 1 and all required documentation is received within forty-five days of program completion and no later than April 30, the effective date of the credential is the program completion date. If documentation is received forty-five or more days after program completion and no later than April 30, the effective date of the credential is the date on which the last supporting document is received by the SCDE teacher certification office. If documentation is submitted after April 30, the effective date of the credential is July 1 of that year.

B. Certificates for Credentialed Out-of-State Educators

If an applicant who is a credentialed educator in another state or jurisdiction completes all requirements to become eligible for a South Carolina educator certificate between May 1 and November 1, the effective date of the credential is July 1 of that year.

If an applicant who is a credentialed educator in another state or jurisdiction completes all requirements to become eligible for a South Carolina educator certificate after November 1 and all required documentation is received no later than April 30, the effective date of the credential is the date on which the last requirement for certification is submitted. If documentation is submitted after April 30, the effective date of the credential is July 1 of that year.

C. Certificate Renewal

If an individual completes the requirements specified in Reg. 43-55 (Renewal of Credentials) to renew his or her South Carolina educator certificate between May 1 and November 1, the effective date of the renewed

credential is July 1 of that year provided that all documentation is on file in the SCDE teacher certification office no later than November 1.

If an applicant completes the requirements specified in Reg. 43-55 (Renewal of Credentials) to renew his or her South Carolina educator certificate after November 1 and all required documentation is received by the SCDE teacher certification office no later than April 30, the effective date of the renewed credential is the date on which the last supporting document is received. If documentation is submitted after April 30, the effective date of the credential is July 1 of that year.

D. Certificate Advancement

If an applicant completes a degree or coursework to become eligible for the advancement of his or her South Carolina educator certificate or to add another field of certification between May 1 and November 1, the effective date of the credential is July 1 of that year provided that all documentation is on file in the SCDE teacher certification no later than November 1.

If an applicant completes a degree or coursework to become eligible for the advancement of his or her South Carolina educator certificate or to add another field of certification after November 1 and all required documentation is received within forty-five days of completion and no later than April 30, the effective date of the credential is the completion date. If documentation is received forty-five or more days after completion and no later than April 30, the effective date of the credential is the date on which the last supporting document is received by the SCDE teacher certification office. If documentation is submitted after April 30, the effective date of the credential is July 1 of that year.

Fiscal Impact Statement:

None.

Statement of Rationale:

Amendments to Regulation 43-52 will replace outdated document titles and office names, clarify procedures and credential effective dates, and remove references to the federal No Child Left Behind Act of 2001.

Document No. 4788
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, 59-25-115, 59-26-40 and 59-26-85

43-53. Credential Classification.

Synopsis:

State Board of Education Regulation 43-53 governs the types of certificates issued to educators. Amendments to Regulation 43-53 will update requirements for issuing specific credential types and will remove the names of specific approved non-traditional or alternative educator preparation providers. These specific terms will be replaced with general language indicating that an appropriate alternative route certificate will be issued to a candidate meeting the requirements for certification outlined in the Board of Education guidelines for a specific provider.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on June 23, 2017.

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Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-53. Credential Classification.

I. Types of Credential Classification

A. Initial Certificate

An initial certificate is valid for three years. Beyond the initial three-year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a public school district at the induction or annual contract level, as defined in S.C. Code Ann. Section 59-26-40, may have their certificates extended annually at the request of the employing school district.

Teachers who hold initial certificates and are employed in a public school setting in a position that does not require certification or is not included in the ADEPT system may have their certificates extended annually for an indefinite period at the request of the employing school or school district, provided that certificate renewal requirements, as specified in Reg.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates extended annually for an indefinite period at the request of the educational entity, provided that certificate renewal requirements, as specified in Reg.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise met the requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for initial certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements:

1. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education (SBE), or from an institution that has programs approved for teacher education by a national accreditation association with which the South Carolina Department of Education (SCDE) has a partnership agreement. Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Submit the required teaching content area examination score(s) and the required score on the examination of general professional knowledge (pedagogy) as adopted by the SBE for purposes of certification.

3. Undergo a criminal records check by the South Carolina Law Enforcement Division (SLED) and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation (FBI). If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the SBE and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina.

B. Professional Certificate

All professional certificates are valid for five years and may be renewed as specified in Reg.43-55 (Renewal of Credentials). To qualify for a professional certificate an individual must

1. Meet all criteria to advance from an initial to a professional certificate as specified in Section 59-26-40.

OR

2. Meet all criteria to advance from an alternative route certificate as specified in the SBE-approved guidelines for the specific alternative route program.

OR

3. Meet all educator experience criteria as specified in Reg. 43-51 (Certification Requirements) to be issued a professional certificate if applying as a certified educator from out-of-state.

OR

4. Meet all criteria of Section 59-26-85 to be issued a professional certificate if applying from out-of-state as an educator holding a current, valid certification through the National Board of Professional Teaching Standards.

C. Alternative Route Certificate

The alternative route certificate for an individual who qualifies under the rules and guidelines published by the SBE for one of the state's approved alternative route programs is valid for one year initially and may be renewed under the conditions specified in the rules and guidelines for that program. The teacher will be eligible for a professional certificate upon his or her successful completion of all requirements as outlined in the SBE-published guidelines for that program, including additional testing requirements approved by the SBE and the formative and summative evaluation of teaching performance and effectiveness as part of the state's system for Assisting, Developing, and Evaluating Professional Teaching (ADEPT).

D. International Certificate

An International Certificate may be issued to a teacher from a country outside of the United States provided the individual has completed at least a bachelor's degree with a major in the teaching field. Organizations that recruit and select teachers from other countries to teach in South Carolina must assure that all cultural/educational visa requirements have been met. The International Certificate may be renewed annually for up to three years at the request of the local school district, provided the teacher has demonstrated content competency based on the SCDE review of the official transcript evaluation or has met the certification examination requirements specified by the SBE during the first year of certification.

E. Internship Certificate

1. Approved Educator Preparation Program. The Internship Certificate will be issued to individuals who are currently enrolled in an SBE approved educator preparation program in South Carolina and have completed all academic and bachelor's degree requirements, with the exception of the teaching internship, as well as all certification examination requirements. The certificate will be issued for up to one year, and must be requested by the employing school district. Upon completion of the teaching internship and verification by the college or university that all approved program requirements have been met, the internship certificate will be converted to an initial certificate.

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2. School Psychologist. The Internship Certificate will also be issued to any individual who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III, or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III.

The applicant for the Internship Certificate in School Psychology must submit official written verification from the college or university that he or she is currently enrolled and working toward full certification as a school psychologist, and that the internship is being served through an SBE-approved training program. The Internship Certificate may be renewed once on the basis of written documentation from the director of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate. Upon successful completion of the internship year(s) and recommendation for certification by the SBE-approved training program, the candidate for school psychologist will be issued a professional certificate.

3. Speech-Language Pathology. The Internship Certificate will also be issued to any individual who holds the Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the required certification examination(s). The certificate will be effective for one academic year and must be requested by the employing school district. The Internship Certificate may be renewed once upon the written request of the employing school district. The Internship Certificate may be converted to an initial certificate upon verification of a successful formative evaluation in fulfillment of the state's induction requirements.

F. Limited Professional Certificate

The purpose of the Limited Professional Certificate is to provide a certificate advancement option for educators who hold South Carolina Initial teaching certificates and who are employed as educators in eligible, non-regulated educational entities in this state. In this context, "non-regulated" means that the entity is not required to comply with SBE regulations and guidelines for evaluating educator performance and effectiveness. Examples of eligible, non-regulated educational entities include South Carolina public charter schools that elect not to participate in the SBE-approved process for evaluating teacher performance and effectiveness, state or regionally accredited private and parochial schools in South Carolina, and South Carolina institutions of higher education that have programs approved for teacher preparation by the SBE.

1. In order to be eligible to advance from an initial certificate to a Limited Professional Certificate, the educator must be employed by an eligible, non-regulated educational entity in South Carolina and must have accrued a minimum total of three years of experience credit over the previous seven years in one or more of these entities. During the entirety of the qualifying time period, the educator must

(a) hold a valid South Carolina Initial teaching certificate,

(b) be employed as a teacher or a professional support specialist, such as a library media specialist, school guidance counselor, or other support professional, in an area in which the educator holds Initial certification, and

(c) successfully complete an annual performance evaluation process that is approved by the employing educational entity.

2. In order to activate the certificate advancement process (i.e., from Initial to Limited Professional), the educator must submit the following documents to the SCDE office that is responsible for educator certification:

(a) a request for change/action requesting advancement for the Limited Professional Certificate,

(b) official verification of experience,

(c) verification of successful annual performance evaluations from each employing entity, and

(d) a recommendation for the Limited Professional Certificate signed by the head of the educational entity in which the educator is employed at the time the certificate is requested.

3. All Limited Professional Certificates are valid for a period of five years.

4. Requirements for renewing Limited Professional Certificates, including the provisions for expired certificates, are the same as those for Professional Certificates, as specified in SBE Regulation 43-55 (Renewal of Credentials).

5. An educator who holds a valid Limited Professional Certificate and who applies for a position as a teacher or a professional support specialist in a “regulated” South Carolina public school is eligible for employment at the annual-contract level. Once employed under an annual contract, the teacher is subject to all requirements and sanctions for annual-contract teachers, as set forth in the applicable state statutes, regulations, and guidelines. Upon successful completion of the SBE-approved process for evaluating teaching performance and effectiveness, the educator is eligible to move from a Limited Professional Certificate to a Professional Certificate and to be employed under a continuing contract.

G. Certification Permit

A one-year certification permit may be issued to an educator who holds a valid South Carolina initial or professional teaching certificate and is assigned teaching duties for any amount of time in an area for which he or she is not appropriately certified. Permits may be issued to classroom-based teachers and for the areas of administration, library media specialist, and school guidance counselor. Certification permits are not issued for the areas of school psychologist and speech-language therapist.

The SCDE has the authority to develop guidelines for the issuance of certification permits in accordance with the provisions of this regulation to include eligibility for the issuance of a certification permit, annual coursework requirements and progress necessary for renewal of the permit, and final requirements for attaining full certification in the permit area. Certification permits must be requested by the educator and his or her employing school or school district.

II. Levels of Credential Classification

A. Bachelor’s degree: the educator must meet all criteria for an initial area of certification and have earned a bachelor’s degree that meets SBE regulations for teacher certification and program approval.

B. Bachelor’s degree plus 18 hours: the educator must have 18 hours of graduate credit that he or she earns within seven years from the time the course work is started. Individuals who do not complete the requirements during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

C. Master’s degree: the educator must have earned a master’s degree that meets SBE regulations for teacher certification and program approval.

D. Master’s degree plus 30 hours:

In order to advance to the level of master’s degree plus 30 hours, the educator must fulfill either one of the following requirements:

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1. The educator must earn 30 semester hours of graduate credit above the master's degree with 21 hours of the graduate credit in one area of concentration. These hours may or may not be in the teacher's initial area of certification. The course work must be completed within seven years from the time it was started. Individuals who do not complete the course work during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

OR

2. The educator must earn an additional master's degree or specialist's degree that meets SBE regulations for teacher certification and program approval.

E. Doctorate: the teacher must have earned a doctoral degree that meets the SBE regulations for teacher certification and program approval.

III. Requirements for Credential Advancement

A. To advance his or her credential from one classification to another, the applicant must submit to the teacher certification office of the SBE the following:

1. Written request to have the certificate advanced on the designated action form.
2. Documentation, including transcripts, that the SBE requirements have been met for certificate advancement.
3. The specified fee, if such a fee is currently being charged.

B. The effective date of the credential advancement will be based on the following:

1. If an applicant completes the degree or coursework to become eligible for the advancement of his or her South Carolina educator certificate between May 1 and November 1, the effective date of the credential is July 1 of that year provided that all documentation is on file in the SCDE teacher certification no later than November 1.

2. If an applicant completes the degree or coursework to become eligible for the advancement of his or her South Carolina educator certificate after November 1 and all required documentation is received within forty-five days of completion and no later than April 30, the effective date of the credential is the completion date. If documentation is received forty-five or more days after completion and no later than April 30, the effective date of the credential is the date on which the last supporting document is received by the SCDE teacher certification office. If documentation is submitted after April 30, the effective date of the credential is July 1 of that year.

Fiscal Impact Statement:

None.

Statement of Rationale:

Amendments to Regulation 43-53 will update requirements for issuing specific credential types and will remove the names of specific approved non-traditional or alternative educator preparation providers. These specific terms will be replaced with general language indicating that an appropriate alternative route certificate will be issued to a candidate meeting the requirements for certification outlined in the Board of Education guidelines for a specific provider.

Document No. 4783
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-29-10 et seq., 59-29-200, 59-33-30, 59-53-1810, and
Pub. L. No. 114-95

43-232. Defined Program 6–8.

Synopsis:

This regulation gives the principles for receiving high school credit at the middle school level.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 28, 2017.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-232. Defined Program 6–8.

Each school district board of trustees shall ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work together to ensure that students are prepared to achieve these standards.

I. Basic Program/Curriculum for Grades 6–8

Instruction in the subject areas shall be scheduled for each student for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis. The subjects shall include, but not be limited to:

A. Subject Areas

English/Language Arts (These courses shall include skill development in reading, writing, listening and speaking.)

Mathematics

Sciences (Environmental education is required as an integral part of the science curriculum.)

Social Studies (Environmental education is required as part of the social studies curriculum; eighth grade social studies must include South Carolina history.)

Health (This includes components as outlined in the Comprehensive Health Education Act, which includes a minimum of 250 minutes of comprehensive health instruction for at least nine (9) weeks annually.)

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Physical Education (Students who are physically or mentally unable to take the physical education course provided for students shall take a suitably modified course in physical education. If a student is unable to complete the physical education course then the course shall be modified to meet the educational ability of the student. §59-29-80)

Visual/Performing Arts (These courses shall include, but may not be limited to, music and art.)

Exploratory Programs (At least one elective in an occupational or exploratory program shall be scheduled. Programs should include key concepts in areas of digital literacy; computing systems; networks and the internet; and data and analysis.)

Foreign Language (A separate course is recommended, but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum.)

Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six hours including lunch, or its equivalent weekly.

A school which includes any combination of grades 5–8 when housed with grades 7 or 8 may elect for all of the combination of grades 5–8 to meet, on a subject by subject basis, the minimum instructional times or the minimum curriculum requirements for either grades 4–5 or grades 6–8, unless otherwise prohibited by law.

B. High School Credit

When approved by the principal and the parents, a student promoted to the seventh or eighth grade may take units of ninth grade or higher work for high school credit. The high school courses offered must be limited to courses that are currently in the 9–12 section of the *Activity Coding System for the Student Information System* with the exception of physical education and health education courses. It is expected that students taking courses for high school credit have been taught and mastered the middle school level standards prior to taking the courses for high school credit. The number of high school credits permitted at the middle school or junior high school level must be determined by the local school district.

C. Alcohol and Drugs

Through special instruction, schools shall provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades 6–8.

D. Guidance Program/School-to-Work Initiative

1. A comprehensive guidance program, including career development, is required in schools having any combination of grades 6–8.

2. Each school district shall offer a range of mentoring opportunities for students beginning no later than the seventh grade. Students participating in any of the work-based programs shall have the written permission of their parents or legal guardians in order to engage in such experiences. Adult supervision shall be provided for mentoring opportunities.

3. Curriculum activities consisting of educational opportunities, career information resources and career development programs shall be included in subject areas for grades 6–8.

4. Beginning in grade 6, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall prepare a plan for a variety of career options in which the student has an interest.

5. In grade 7, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall revise career planning records in which the student has an interest.

6. In grade 8, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall review and revise the career planning record. The record shall include a high school course of study based on a major plan and an alternate plan for career options in which the student has an interest and the postsecondary programs of study related to achieving a career goal.

E. Library/Media Program

Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strategic plan.

II. Innovative Approaches

A school encompassing any combination of grades 6–8 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

III. Class Size, Grades 6–8:

A. The maximum teacher load shall not exceed 150 students daily. Maximum class size shall not exceed the following:

Grade 6	30:1 (English/language arts and math) 35:1 (other subjects)
Grades 7–8	35:1 (all academic and exploratory subjects)

No class shall exceed 35 students in membership.

B. Exceptions:

1. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40 student maximum and 240 student total is also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

2. Music teachers may teach a maximum of 240 pupils daily. No class shall exceed 40 students in membership. Exception: When band, chorus, and orchestra require rehearsals of the entire membership, any number is acceptable if adequate space is available.

3. When a teacher’s daily schedule includes a combination of subjects, the maximum daily teaching load shall be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example: 3 classes of math of 30 each = 90 + 2 classes of P.E. of 40 each = 80. Teacher is not overloaded but teaches maximum allowable.)

Maximum teacher load requirements and individual class size limits are the same for mini courses as any other classes.

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IV. Additional Regulatory Requirements

Additional regulatory requirements related to the basic program include, but are not limited to, the following:

- Gifted and Talented Reg. 43-220
- Health Education Reg. 43-238
- Summer School Programs Reg. 43-240
- Special Education, Education of Students with Disabilities Reg. 43-243
- Academic Assistance Programs – Grades 4–12 Reg. 43-268

V. Student Records

1. Each school shall have an appropriate means of reporting academic achievement to parents.
2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education (SCDE). A record of all dropouts shall be filed by school, grade, race, and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, SCDE.

VI. Emergency Closings

Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Federal and State Accountability.

Fiscal Impact Statement:

None.

Statement of Rationale:

The amendment will ensure middle school students who are advanced beyond middle school level demonstrate the ability and developmental readiness to accelerate. Changes will also be made to bring the regulation's language consistent with the new Uniform Grading Policy.

Document No. 4782
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-1-425(C), 59-5-60, 59-18-110, 59-18-310(B),
59-29-10 et seq., 59-33-30, 59-53-1810, 20 U.S.C. 1232(g), and Pub. L. No. 114-95

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

Synopsis:

The regulation defines the graduation requirements for the State.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 28, 2017.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

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

Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education pathways and endorsements.

I. Requirements for Earning a South Carolina High School Diploma

A. The student must earn a total of twenty-four units of credit as follows:

Unit Requirements

English language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies	1.0
physical education or Junior ROTC	1.0
computer science	1.0
foreign language or career and technology education	1.0
electives	7.0

	24.0 total

B. Students shall have the opportunity to earn endorsements within each high school diploma pathway; however, earning an endorsement is not a requirement for graduation. Endorsements shall identify a particular area of focus, beginning with the freshman class of 2018–19. The earning of a graduation endorsement shall be based upon the following criteria:

1. Students shall meet all requirements for earning a South Carolina high school diploma as set forth above and within this regulation.

2. Students may earn one or more endorsements in pathways approved in guidelines set by the State Board of Education (SBE). School districts may apply to the SBE to have additional endorsements approved.

3. English I, II, III, IV or their course equivalents (customized English I, II, III, IV as approved by the SBE through the locally designed course process as mentioned in II.H.1) or higher level courses (Advanced Placement, International Baccalaureate, Dual Credit, etc.) must be taken to receive an endorsement.

C. The South Carolina Department of Education (SCDE) has the authority to develop guidelines approved by the SBE in accordance with provisions of this regulation.

D. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutions and ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulations regarding the end-of-course test for

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U.S. History and Constitution, see Reg. 43-262, Assessment Program.) As part of the high school curriculum regarding the United States government required credit, students are required to take the civics test as defined as the one hundred questions that officers of the United States Citizenship and Immigration Services use to demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of the United States government.

E. The student must pass a high school credit course in science in which an end-of-course examination is administered.

F. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school program do not satisfy this requirement.

II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

B. A school may award one unit of credit for an academic standards-based course that requires a minimum of 120 hours of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.

C. A school may award credit for courses that have been approved by the SCDE in a proficiency-based system. A proficiency-based course may also be offered for one-fourth, one-half, or one unit if the system specifies these units. Each school district that seeks to implement a proficiency-based system must submit a plan to the SCDE that provides procedures for establishing and developing a proficiency-based system including the method for determining proficiency. The SCDE must approve the district-submitted plan prior to the district's use of the proficiency-based system. Districts are accountable for making sure that the academic standards and the individual learning needs of the students are addressed.

D. A school may award credit for those gateway courses that are a part of the End-of-Course Examination Program only if a student takes the course approved by the school in which he or she is enrolled and meets all the stipulated requirements of the End-of-Course Examination Program. (For specific regulations regarding end-of-course tests, see Reg. 43-262, Assessment Program.)

E. A school may award credit only for courses in summer programs-either district-wide or school-site programs-that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A district-wide summer school program may meet the administrative certification requirement by employing a district supervisor as well as a lead teacher for each school site.

F. A school may award credit for a course that is approved by the district-whether that school offers the particular course or not-if the student receives prior approval.

G. A school may award credit toward the high school diploma for a course that the student takes in an approved adult education program if the course is granted approval by the local superintendent or his or her designee.

H. A school may award credit for locally designed courses under the following conditions:

1. Locally designed core subject-area courses used as graduation units of credit must be aligned with the state academic standards for the particular subject area and must be approved by the local board of trustees and the State Superintendent of Education.

2. Locally designed elective courses must be approved by the local board of trustees. No more than two units may be awarded to a student for released-time classes in religious instruction.

3. Locally designed Career and Technical Education (CATE) courses funded with state or federal CATE monies must be approved by the SCDE's CATE office.

I. A school may award credit for the American Sign Language course as the required unit in a foreign language.

J. A school may award credit for a college course that students in grades nine through twelve take under the district's dual credit arrangement.

K. A student who has earned the one-half credit in Keyboarding by the 2017-18 school year will be awarded one-half unit of credit for Computer Science.

III. Dual Credit Arrangement

A. District boards of trustees may establish a policy allowing students to take college courses for units of credit toward the high school diploma. The district policy may allow for courses to be offered by an institution of higher education through a cooperative agreement.

B. A three-semester-hour college course transfers as one unit of credit.

C. Tuition costs and any other fees are the responsibility of the individual student or his or her parent(s) or legal guardian unless otherwise specified in local school district policy.

D. Students enrolled in a South Carolina public school may take only courses that are applicable to baccalaureate degrees, associate degrees, or certification programs that lead to an industry credential offered by an appropriate regional accrediting agency recognized by the U.S. Department of Education.

IV. Transfer Students

A transfer student is one who enrolls in a South Carolina public school after having been enrolled in another school in this state or in a school in another state. Credits that he or she earned at the former school may be accepted and applied toward the South Carolina high school diploma. (For specific regulations see Reg. 43-273, Transfers and Withdrawals.)

V. Instructional Program

School districts must organize high school curricula around a minimum of three clusters of study and cluster majors. Such curricula must be designed to provide a well-rounded education that fosters artistic creativity, critical thinking, and self-discipline through the teaching of academic content and skills that students will use in postsecondary study and in the workplace. Students must declare an area of academic focus, also known as a career major, within a cluster of study before the end of the second semester of their tenth-grade year.

Each year, schools must offer a range of required college- and career-ready courses in the core subject areas as listed in the SCDE's *Activity Coding System* to meet the needs of all students in a four-year graduation cohort.

For students whose academic needs are greater than those courses offered by their school, Virtual SC courses, if available, must be offered by the district to the students in order to graduate with the four-year graduation cohort.

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A. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). The sixteen state clusters are the same as the sixteen federal clusters:

- Agriculture, Food, and Natural Resources
- Architecture and Construction
- Arts, Audio-Video Technology, and Communications
- Business, Management, and Administration
- Education and Training
- Finance
- Government and Public Administration
- Health Science
- Hospitality and Tourism
- Human Services/Family and Consumer Sciences
- Information Technology
- Law, Public Safety, Corrections, and Security
- Manufacturing
- Marketing, Sales, and Service
- Science, Technology, Engineering, and Mathematics
- Transportation, Distribution, and Logistics

B. Schools must also offer instruction in each of the following areas:

1. Advanced Placement: Schools whose organizational structure includes grades eleven and twelve must offer Advanced Placement courses. (For specific regulations regarding the Advanced Placement program, see Reg. 43-258.1, Advanced Placement.)

2. Alcohol, tobacco, and other drugs: Schools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction must emphasize the negative effects that the use of such substances can have on the total community.

3. Career and technology education: Schools must offer CATE courses. Students who plan to complete a CATE program must earn at least three units in an approved sequence of CATE courses leading to a career goal.

4. Driver education: Schools must provide a complete program of driver education, including classroom and behind-the-wheel phases, each semester on an elective basis for eligible students. (For specific regulations regarding driver education, see Reg. 43-242, Driver Training.)

5. Environmental studies: Schools must include environmental studies as a part of their instructional program.

6. Financial literacy: Schools must include financial literacy as a part of the instructional program.

7. Foreign language (modern and classical languages): Schools must offer levels 1 and 2 of at least one modern or classical language. Most state four-year colleges/universities require at least two units of the same modern or classical language for admission.

8. Health education: Schools must have a program of instruction in comprehensive health education. (For specific requirements regarding health education, see Reg. 43-238, Health Education Requirement.)

At least one time during the entire four years of grades nine through twelve, each student shall receive instruction in cardiopulmonary resuscitation (CPR) which must include, but not be limited to, hands-only CPR and must include awareness in the use of an automated external defibrillator (AED) except that virtual schools may administer the instruction virtually and are exempt from any in-person instructional requirements.

9. Physical education: The required physical education course in secondary schools shall occur over two semesters (year-long schedule) or two nine weeks (semester block schedule) or the equivalent. For one semester, a personal fitness and wellness component must be taught, and for one semester, a lifetime fitness component must be taught either over the semester or in two nine-week divisions or the equivalent.

10. Visual and performing arts: Schools must offer courses in the visual and performing arts.

VI. Other Program Requirements

A. School Counseling Program

All schools encompassing any combination of grades nine through twelve are required to provide a comprehensive school counseling program that is based on grade-specific standards. The standards must address the academic, personal and social, and the career domains. Specifically, students must be provided school counseling and career awareness programs and activities that assist them in developing and fulfilling their individual graduation plans and prepare them for a seamless transition to relevant employment, further training, or postsecondary study.

B. Library Media Program

Library media programs and technology resources must be available and accessible to all students and staff and must be appropriate for the accomplishment of the strategies and goals in each school renewal or district strategic plan.

C. Length of School Day

1. The instructional day for secondary students must be at least 6 hours, excluding lunch, or the equivalent weekly.

2. Homeroom will not count as part of the instructional day. When no homeroom period is utilized, the administrative time that is used to determine attendance, make announcements, or complete other tasks normally accomplished during homeroom period will not be considered as part of the instructional day.

3. Schools may exercise options and vary the number of minutes in the instructional week, provided that such variation meets statutory requirements and is approved by the local board of trustees.

D. Class Size

1. The teacher load must not exceed the maximum of 150 students daily. Class size must not exceed the maximum of 35 students.

2. The above-stated maximums do not apply in the following circumstances:

a. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

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b. Music teachers may teach a maximum of 240 pupils daily. No class may exceed 40 students in membership. However, when band, chorus, or orchestra require rehearsals of the entire membership, any number of students is acceptable if adequate space is available.

c. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load will be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example, 3 classes of math of 30 each = 90 + 2 classes of physical education of 40 each = 80. In this example, the teacher is not overloaded but teaches maximum allowable.)

d. Maximum teacher load requirements and individual class size limits are the same for mini-courses as for any other classes.

E. Additional Regulatory Requirements

1. Due to federal requirements, all students must take a science course for which an assessment is given.

2. For state accountability purposes, every student must take an end-of-course examination in biology.

3. State Board regulations that contain instructional program requirements are accessible on the SCDE web site on the "State Board of Education Regulations Table of Contents" page.

4. All students must be offered a college entrance assessment that is from a provider secured by the SCDE. In addition, all students entering the eleventh grade for the first time in school year 2017–2018 and subsequent years, must be administered a career readiness assessment. If funds are available, the State shall provide all twelfth grade students the opportunity to take or retake a college readiness assessment, the career readiness assessment, and/or earn industry credentials or certifications at no cost to the students. Therefore, the students may subsequently use the results of those assessments to apply to college or to enter the work force or the military.

5. High schools shall offer state-funded tests to each tenth grade student in order to assess and identify curricular areas that need to be strengthened and reinforced. Schools and districts shall use these assessments as diagnostic tools to provide academic assistance to students whose scores reflect the need for such assistance. Furthermore, schools and districts shall use these assessments to provide guidance and direction for parents and students as they plan for postsecondary experiences.

VII. Reporting Requirements

A. High School Completers

1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year's completers:

a. the number of the school's completers who entered the freshman class of a postsecondary institution—either in South Carolina or out of state—and on whom such an institution has sent the school a first-term transcript or summary grade report,

b. a breakdown of all postsecondary courses that this group of completers passed during their term,

c. a breakdown of all postsecondary courses that this group failed during their first term,

d. a breakdown of all postsecondary courses for which this group received a grade of "no credit" during their first term, and

e. the number of the school's completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available.

2. Each school must use the official form to submit the required data on its previous year's completers.

B. Career and Technology Education Completers

Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecondary education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least three units of credit in CATE courses leading to a career goal.

The district must conduct the survey ten months after graduation each year and must submit the results annually to the SCDE for the purpose of federal and state accountability requirements.

C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.

2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the SCDE.

3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his or her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status.

4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the SCDE's Office of Finance.

5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. Section 1232(g)).

D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.

2. The name and code number of every course that each student takes must be entered into the student data collection system active master scheduler at the time the student takes the course. Courses may not be added to the student's course history (transcript) without first being entered into the scheduler.

3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the district, state, or another type of provider must be included in the active master scheduler.

E. Longitudinal Data System

The Revenue and Fiscal Affairs Office, working with the Office of First Steps to School Readiness, the SCDE, the South Carolina Commission on Higher Education, the Department of Social Services, the South Carolina Technical College System, the Department of Commerce, the Department of Employment and Workforce, and other state agencies or institutions of higher education, shall develop, implement, and maintain

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a universal identification system that includes, at a minimum, the following information for measuring the continuous improvement of the state public education system and the college and career readiness and success of its graduates:

1. students graduating from public high schools in the State who enter postsecondary education without the need for remediation;
2. working-aged adults in South Carolina by county who possess a postsecondary degree or industry credential;
3. high school graduates who are gainfully employed in the State within five and ten years of graduating from high school; and
4. outcome data regarding student achievement and student growth that will assist colleges of education in achieving accreditation and in improving the quality of teachers in classrooms.

VIII. Emergency Closings

All school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed, operate schools on Saturday, or may waive up to three days. A waiver granted by the local board of trustees may only be authorized by a majority vote of the local school board, and, after the completion of the 2014–15 school year, may not be granted for a school in the district until the school has made up three full days, or the equivalent number of hours, missed due to snow, extreme weather, or other disruptions requiring the school to close during the same school year in which the waiver is sought. When a district waives a make-up day pursuant to this section, the make-up day also is waived for all charter schools located in the district and for all students participating in a home schooling program approved by the board of trustees of the district in which the student resides. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the SCDE, Office of Federal and State Accountability before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

The SBE may waive the requirements of making up days beyond the three days forgiven by the local school district, not to exceed three additional days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. Such a waiver only may be considered and granted upon the request of the local board of trustees through a majority vote of that local school board. The SCDE annually before July 1 shall provide the General Assembly with a detailed report of information from each district listing the number of days missed and the reason, regardless of whether any were missed; days made up; and days waived.

Fiscal Impact Statement:

None.

Statement of Rationale:

SBE Reg. 43-234 regulates secondary school courses and the graduation requirements. The SBE recently approved a new Uniform Grading Policy and General Assembly recently enacted new law governing diploma pathways. These amendments align the regulation with the policy and the law.

Document No. 4752
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Section 59-39-100

Synopsis:

The South Carolina Board of Education is proposing to add a new regulation governing the State's Employability Credential recently enacted by the amended S.C. Code Ann. Section 59-39-100. This new regulation will promulgate the program components and criteria for a state-recognized Employability Credential for applicable students with disabilities for whom such a credential is appropriate. This credential is not a state high school diploma.

Notice of Drafting for the proposed new regulation was published in the *State Register* on June 23, 2017.

Instructions:

Print new regulation as shown below.

Text:

43-235. Employability Credential for Students with Disabilities.

A. Introduction and Purpose.

(1) This regulation, as governed by S.C. Code Ann. Section 59-39-100, will promulgate the program components and criteria for a state-recognized Employability Credential for applicable students with disabilities for whom such a credential is appropriate.

(2) Pursuant to the regulatory requirements of Section 59-39-100, beginning in the 2018–19 school year, students with disabilities entering grade nine may attain a uniform diploma through one of the recognized personalized pathways; or may attain a uniform Employability Credential. Nothing contained in this regulation restricts any student from obtaining a state high school diploma. Nothing contained in this regulation restricts local school boards of trustees from awarding students with a certificate of attendance for students with disabilities who do not meet the requirements for earning either a state high school diploma or an Employability Credential.

(3) Beginning no earlier than the end of the child's eighth grade academic school year, or later if deemed appropriate by the student's individualized education program (IEP) team, and updated annually thereafter, the IEP team must determine if the child's expected high school outcome will be to attain a state high school diploma or a state-recognized Employability Credential. The course of study identified in the IEP must match this determination.

(4) The South Carolina Department of Education (SCDE), as the state educational agency (SEA); all local educational agencies (LEAs); all state-operated programs (SOPs); and all other public programs providing special education and related services as outlined in the Individuals with Disabilities Education Act (IDEA) must follow and comply with all statutory and regulatory requirements of the IDEA as outlined in 20 U.S.C. Section 1400 et seq., and the Code of Federal Regulations (C.F.R.), Chapter 34, Part 300. In addition to the statutory and regulatory requirements, this regulation further delineates requirements for attaining a state-recognized Employability Credential.

B. Definitions.

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(1) Employability Credential is defined as a state-recognized certificate which demonstrates a student has completed requirements indicating the student has developed skills and knowledge to prepare him or her for postsecondary employment and/or education as well as, community-based living, as appropriate.

(2) Work-based learning/training is defined as a paid or an unpaid opportunity to develop work skills, work expectations, and work behaviors. Work-based learning/training can occur in a school (e.g., school-based) and/or community setting (e.g., community-based).

(3) Competitive employment as described in 34 C.F.R. Section 361.5(b)(11) means work—

(a) To be in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting which is a setting that consists of individuals who are not disabled that are in comparable positions as the individual with a disability; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(4) Employability education is defined as instruction, services, and supports that will prepare the student to attain a job after completion of the Employability Credential. This will encompass career exploration, vocational education, functional skill development needed for the work place, and a focus on job-readiness skills. Employability education may include Career and Technical Education programs and services.

(5) Work readiness assessment is defined as a formal assessment (e.g., norm-referenced or criterion-referenced) that measures a student's skills set in relation to skills that are necessary for competitive employment in the community.

C. Requirements.

(1) Minimal Course Requirements: The Employability Credential is designed for students with disabilities for whom the IEP team determines mastery of a career-based educational program (that includes academics, independent work experience, daily living skills, and self-determination skill competencies) is the most appropriate way to demonstrate his or her skills and provide a free appropriate public education (FAPE). To attain the Employability Credential, the student must meet the graduation requirements of one unit of physical education/health (or equivalent) and one unit of technology course; a student must adhere to the local attendance policy; and a student must complete a total of 24 earned units that include the following:

(a) Course work aligned with the South Carolina College and Career-Ready Standards for English Language Arts (four units), Mathematics (four units), Science (two units), and Social Studies (two units);

(b) Four units of Employability Education; and

(c) Six electives.

(2) Minimal Required Components: In addition to completing coursework outlined in Section A above, to receive an Employability Credential, a student must:

(a) Complete a career portfolio that includes a multimedia presentation project;

(b) Obtain work readiness assessment results that demonstrate the student is ready for competitive employment; and

(c) Complete work-based learning/training that totals at least 360 hours, in which:

(i) Work-based learning/training may be school-based, community-based, and/or paid or unpaid employment;

(ii) Work-based learning/training must be aligned with the student's interests, preferences, and postsecondary goals and individual graduation plan; and

(iii) Paid employment must be at a minimum wage or above and in compliance with the requirements of the Federal Fair Labor Standards Act.

(3) LEA/SOP Requirements.

(a) The LEA and SOP must develop and maintain policies and procedures related to the state-recognized Employability Credential. This must include mechanisms for monitoring students' progress toward attainment of the Employability Credential and mechanisms for monitoring proportionate numbers of Employability Credentials relative to the LEAs or SOPs' students with disabilities child count and graduation rate.

(b) The decision to accept the Employability Credential does not relieve the LEA or SOP from providing a FAPE to the student until age 21 as defined in R. 43-243(III)(C) or until the student receives a regular high school diploma as defined in S.C. Code Ann. Section 59-39-100.

(c) The LEA or SOP must explain and provide annual written notice to the parent, guardian, or adult student that the Employability Credential is not a state high school diploma. For the purposes of this part, an adult student is defined as a student who has reached the age of majority as defined in Reg.43-243(III)(F)(1).

(d) An IEP team's decision to identify the Employability Credential as the student's expected high school outcome must be based on data to include, but not be limited to, longitudinal information of student grades, standardized achievement assessments, informal and formal transition assessments, adaptive behavior assessments, and work readiness assessments. The decision must be made only after the IEP team considers a continuum of program options that may allow the student to pursue a diploma.

D. Monitoring, Enforcement, and Program Information.

(1) The SEA will develop and maintain policies, procedures, and guidance documents (to include a rubric and guidelines used to identify and assess the employability skills of the students) that are based on appropriate standards as related to the Employability Credential. Mechanisms for overseeing attainment of the Employability Credential shall be in place to monitor proportionate distribution of the Employability Credentials relative to the LEAs or SOPs' students with disabilities child count and to ensure that students with disabilities receive a FAPE.

(2) State Monitoring. As outlined in 34 C.F.R. Sections 300.600 et seq., and provided for by the IDEA, the state shall monitor the implementation of educational programs for students with disabilities.

(3) Enforcement. The state retains all rights for enforcement of this regulation and of all other applicable federal and state statutes, regulations, policies, and procedures related to the education of students with disabilities, including but not limited to the IDEA, the Every Student Succeeds Act, the Education Department General Administrative Regulation in 2 C.F.R. Section 200.300.

(4) The South Carolina State Board of Education authorizes the SCDE to develop and propose special education policies and procedures as necessary to meet these and other applicable federal requirements.

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Fiscal Impact Statement:

According to the South Carolina Department of Education's, Office of Special Education Services (OSSES), the direct fiscal impact will be costs associated with printing and issuing certificates state-wide and with reissuing certificates upon constituent requests. Estimating 20 percent of students with disabilities between the ages of seventeen and twenty-one (or 2,200 out of 11,000 students) at \$.89 per certificate (local level cost) plus an estimated art work fee of \$100 (state level cost) is approximately \$2,100. It is important to note that this cost is based on the current vendor's costs. This current vendor is on state contract for five years and the contract ends 2021, which is prior to the year in which Employability Credentials will be issued.

Possible indirect fiscal impact at the local level may include the need for an increased number of personnel (e.g., transition specialists or coordinators and job coaches to assist with school and community-based work experience/training); an increased number of buses to assist with transporting students to work-site locations; and an increase in funds to support school-based work experiences/training (e.g., school-based enterprises) including appropriate curricula and related instructional resources.

Statement of Rationale:

South Carolina has roughly 100,000 students with disabilities serviced under the Individuals with Disabilities Education Act (IDEA), of which the majority are able to earn a state high school diploma. Given the varying levels of student achievement, as well as the inability to complete required high school coursework, there is a need to provide an alternative option for students with disabilities to demonstrate their ability to transition into the work community. The uniform state-recognized Employability Credential will be aligned to a newly created program of study for these students with disabilities whose Individualized Education Program (IEP) team determines this program of study is appropriate.

To align with the State's Profile of the South Carolina Graduate, an opportunity that will assist these students in acquiring skills necessary to be successful after high school is critical. The purpose of this statute and regulation is to provide equitable job-readiness opportunities for these students throughout the state, ensure they have evidence of employability skills, and honor the work they have undertaken in our public schools.

Some relevant research includes: Students employed at the time of high school exit are 5.1 times more likely to be engaged in post-school employment (NSTTAC, 2011); Students with prior work experience are significantly more likely to get a job than those that did not. In fact, those with paid vocational experience were 35 percent more likely to secure jobs (Fabian, 2007); and according to Cimera's research (2010), "... supported employment was cost efficient from the workers' perspective. That is, on average, individuals with intellectual disabilities who became successfully employed within their communities gained greater monetary benefits (i.e., wages earned) than the resulting monetary costs (i.e., forgone wages, taxes paid, reduction in subsidies)."

Document No. 4754
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-24-30, and 59-24-40

43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP).

Synopsis:

The State Board of Education proposes to amend R. 43-165.1 to realign and clarify language for three purposes: (1) to clarify that the evaluation instrument is available from the South Carolina Department of Education, (2) to clarify that approved alternative evaluation instruments can be used as part of the criteria for

Tier 2 certification, and (3) to clarify that identified areas of student growth will be included in the Principal's Professional Development Plan. There will be no fundamental changes.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on May 26, 2017.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP).

I. PURPOSE

The State Board of Education, (SBE) through the South Carolina Department of Education (SCDE), is required to adopt statewide performance standards and criteria that shall serve as a foundation for all processes used for assisting, developing, and evaluating principals employed in the school districts of this state. School districts shall use the standards and procedures adopted by the SBE for the purposes of conducting evaluations and guiding the professional development of principals. Districts are to consider evaluation results in making decisions regarding principal development, compensation, promotion, retention, and removal.

The SCDE shall ensure the implementation of principal evaluation in the school districts.

Principals must be evaluated using the Performance Standards and Criteria for Principal Evaluation adopted by the SBE. Additional performance standards and criteria may be established by the superintendent. As required by S.C. Code Ann. Section 59-24-30, the principal's annual Professional Development Plan (PDP) shall be established on the basis of the PADEPP Performance Standards and Criteria and the school's renewal plan.

II. DEFINITIONS FOR THE PURPOSES OF THIS EVALUATION PROGRAM

A. **PRINCIPAL:** A principal is the chief administrative head or director of an elementary, middle, or secondary school or of a vocational, technical, special education, or alternative school. Induction principals are those serving for the first time as building-level principals. These principals are considered probationary until they have completed the requirements of the Principal Induction Program (PIP) and have received an overall rating of Proficient or higher on the PADEPP evaluation instrument.

B. **EVALUATOR:** The evaluator is the district superintendent and/or the superintendent's designee. All evaluators must have successfully completed the SCDE's PADEPP training before evaluating principals.

C. **EVALUATION INSTRUMENT:** The evaluation instrument developed by the SCDE is based upon the PADEPP Performance Standards and Criteria and is available from the SCDE. In lieu of the state instrument, districts and charter schools may request permission to use an alternative evaluation process that meets state requirements and national standards. This instrument must be approved by the SCDE and the SBE.

D. **EVALUATION CYCLE:** The evaluation cycle shall be consistent with the school year as defined by law. After induction, principals shall be evaluated as stated in Section III.

III. PROGRAM IMPLEMENTATION

A. PRINCIPALS WITH TIER 1 CERTIFICATION

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(1) First-year principals shall participate in an induction program as provided for in SBE Reg. 43-167, "Principal Induction Program." The superintendent or his or her designee shall provide the first-year principal with written and oral feedback relative to each performance standard and criterion. Principals are to receive this feedback at least at mid-year and end-of-year conferences. The superintendent or his or her designee will observe, collect relevant data, consult with the first-year principal on a regular and consistent basis, and provide the first-year principal with an informal written evaluation.

(2) Upon successful completion of both the South Carolina PIP and a full evaluation on the PADEPP evaluation instrument or the approved alternative evaluation instrument, the principal will be eligible for Tier 2 principal certification. If the overall rating on the PADEPP evaluation instrument or the approved alternative evaluation instrument in any year immediately subsequent to the induction year of employment as a principal is below Proficient, the principal will remain on Tier 1 certification until the SCDE receives verification from the employing school district that the principal has achieved an overall rating of Proficient or higher on PADEPP or the approved alternative evaluation instrument.

B. PRINCIPALS WITH TIER 2 CERTIFICATION

The superintendent or his or her designee shall evaluate Tier 2 principals annually. A full evaluation using all PADEPP Performance Standards will be conducted at least every third year. The evaluation shall address each of the PADEPP Performance Standards and accompanying Criteria. Principal evaluations on years between full evaluations will include Performance Standards for Instructional Leadership, Principal's Professional Development, and all Performance Standards rated the previous year as below "Proficient," as well as any additional Performance Standards identified in the Principal's PDP. Full evaluations may, of course, be conducted every year, if the superintendent chooses to do so. A principal is to receive feedback from the superintendent or his designee regarding the principal's performance at least at mid-year and end-of-year conferences.

IV. PERFORMANCE STANDARDS AND CRITERIA

Principal preparation programs and school districts must address, but are not limited to, the Performance Standards and Criteria for the PADEPP, as specified in the SBE's PADEPP implementation guidelines.

V. EVALUATION PROCESS

A. The evaluation of each principal shall consist of both formative and summative phases.

(1) The formative phase shall begin with an initial review of the evaluation instrument by the evaluator with the principal. Regular conferences shall be held to discuss the principal's progress and shall include an analysis of the data collected during the year.

(2) The summative phase shall provide for evaluative conclusions regarding the principal's performance based upon the data collected. Upon completion of the evaluation, the evaluator will meet with the principal to discuss the findings in terms of each of the PADEPP Performance Standards, as well as the overall results. At the conclusion of the meeting, the evaluator and the principal shall sign the evaluation form, and a copy shall be given to the principal.

B. After reviewing the overall results of the evaluation, the principal and evaluator shall establish the principal's annual PDP on the basis of the identified strengths and weaknesses, as well as the school's renewal plan and identified areas of student growth.

C. Satisfactory performance on an evaluation does not guarantee reemployment as a principal.

D. Each principal has the right to respond in writing to the completed principal evaluation instrument. This written response must be submitted to the evaluator within ten working days of the summative conference.

E. All appeals shall follow local school district policies and procedures governing the local appeal process.

VI. DISTRICT RESPONSIBILITIES

A. Each school district shall ensure that principals receive awareness training that includes

(1) the PADEPP Performance Standards and Criteria for Principal Evaluation,

(2) the PADEPP principal evaluation instrument, and

(3) Reg. 43-165.1, "Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)."

B. Each school district shall ensure that the district superintendent and the superintendent's designee(s) are trained as evaluators of principals.

C. Each school district shall designate one individual to be trained as a district coordinator for the PADEPP. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation, including an annual submission for all principals in their district.

D. Each school district shall maintain principal evaluation data and shall ensure the confidentiality of the evaluation results in accordance with the Freedom of Information Act.

E. Each school district shall submit annual assurances and required principal evaluation data to the SCDE indicating compliance with this regulation and the PADEPP implementation guidelines.

F. Each school district shall utilize the results from the principal evaluations in decisions regarding principal development, compensation, promotion, retention, and removal.

VII. SCDE RESPONSIBILITIES AND AUTHORITY

A. The SCDE shall ensure that the PADEPP is appropriately implemented by each school district in accordance with this regulation and the PADEPP implementation guidelines.

B. The SCDE shall collect from school districts required principal evaluation data, as well as Assurance/Validation forms, in order to

(1) determine trends and inform decisions concerning educational leadership preparation and professional development, and

(2) ensure that the PADEPP is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.

C. The SCDE shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement. Specifically, the training will ensure that participants have the knowledge and skills necessary to collect and document data relative to a principal's performance, analyze the data to identify the principal's performance strengths and weaknesses, provide feedback to the principal in terms of the PADEPP Performance Standards and Criteria, and counsel, coach, and assist the principal to improve effectiveness.

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Additionally, the training will ensure that participants are prepared to evaluate the principal in a valid, reliable manner, and to make a summative judgment regarding the principal's performance.

D. The SCDE has the authority to develop guidelines, approved by the SBE, in accordance with the provisions of this regulation.

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 Reg. 43-165.1.

Statement of Rationale:

Student growth will remain a prominent component of the principal evaluation system each year. As a required goal of the Principal's Professional Development Plan, an action plan for identified areas of student growth will be based upon the specific needs of the students and school each year.

Document No. 4781
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-19-90, 59-63-30 et seq., 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, 59-65-90, and 20 U.S.C. 7165

43-273. Transfers and Withdrawals.

Synopsis:

This regulation governs the smooth transferal and withdrawal system of students from within the state and outside the state of South Carolina.

Notice of Drafting for the proposed amendments to the regulation was published in the State Register on July 28, 2017.

Instructions:

Entire regulation is to be replaced with the following text.

Text:

43-273. Transfers and Withdrawals.

Each student transferring or withdrawing shall be given a form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

I. Kindergarten; Grades 1–6; 7–8:

A school must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring when requested in writing by the receiving school, as soon as possible,

but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

Schools must transfer these records within ten business days upon receiving the written request from the public or private school to which the student is transferring. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

II. Grades 9–12:

A. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school when requested in writing, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. A permanent record of the transferred student shall be retained in the school from which the student is transferred. The school of record must transfer a student’s disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

B. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropriate regional accrediting agency recognized by the U.S. Department of Education will be accepted under the same value which would apply to students in the school to which they transferred.

C. Home school, private school, or out-of-state non-public school students shall have the opportunity to provide evidence of work to be considered for honors weighting when transferring to a public school. The district shall have the right to evaluate evidence provided by the parent or student before transcribing the course(s) at honors weight. The receiving school may use the South Carolina Honors Framework criteria to evaluate such evidence and shall make the final decision on whether to award the honors weighting. The South Carolina Department of Education advises districts to adopt a policy for accepting units of credit from home school, private school, or out-of-state non-public school for consistency.

Fiscal Impact Statement:

None.

Statement of Rationale:

SBE Reg. 43-273 regulates the transferal and withdrawal of students from within and out of the state of South Carolina. The SBE has approved a new Uniform Grading Policy. The amendments to the regulation will update the language to provide a smoother and more consistent transition whether the student is from a public school, home school, private school, or out-of-state non-public school.

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Document No. 4740

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394 and 44-41-10(d)

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

Synopsis:

The Department of Health and Environmental Control is amending Regulation 61-16. These amendments are necessary to incorporate recent changes in state law as well as changes to current practices and standards. The amendment incorporates provisions allowing dietitians to prescribe diets and other dietary services; incorporate requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; incorporate existing inspection and construction fees; and incorporate new safe haven requirements.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion of Amendments:

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The table of contents was updated to reflect amended sections.

Section 61-16.101. Definitions

The definition of 101.G Dietitian has been redefined as an individual who is registered by the Commission on Dietetic Registration and currently licensed as a dietitian by the South Carolina Department of Labor, Licensing and Regulation.

Section 61-16.201. License Requirements

Section 201.E was amended to delete an unnecessary statutory reference and to require that a hospital shall comply with Chapter 41 of Title 44 of the S.C. Code of Laws. Former Section 201.G was relocated to new Section 201.H. Section 201.G (formerly 202) was amended to require that annual license fees include any outstanding inspection fees.

Section 61-16.202. Licensing Fees

Section 202 has been deleted and moved to Section 201.G.

Section 61-16.202. Exceptions to Licensing Standards (formerly 61-16.203)

Section 202 (formerly 203) was renumbered to adjust the codification.

Section 61-16.302. Inspections and Investigations

New Section 302.F was added to delineate inspection fees the Department is authorized to collect pursuant to S.C. Code Section 44-7-270.

Section 61-16.1303. Providing a Safe Haven for Abandoned Babies

Section 1303.A was amended to require that facilities accept infants not more than sixty (60) days old, pursuant to a statutory change.

Section 61-16.1505. Diets

Section 1505 introductory paragraph was amended to include dietitians. Section 1505.A was amended to require that diets be prescribed, dated and signed or authenticated by the physician or dietitian. New Section 1505.F was added to allow facility policy to permit a dietitian to order or prescribe patient diets, including therapeutic diets;

order laboratory tests to monitor the effectiveness of diets; and/or make subsequent modifications to patient diets based on lab results, if permitted by the facility's policies.

Section 61-16.1903. Submission of Plans

New Section 1903.D was added to require the licensee to pay inspection fees during the construction phase of a project. A Construction Inspection Fees table was added to clearly delineate the required construction inspection fees.

Instructions:

Amend Regulation 61-16 pursuant to each individual instruction provided with the text of the amendments below.

Text:

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

Revise Section 200 of Table of Contents to read:

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SECTION 200. LICENSE REQUIREMENTS AND FEES

201. License Requirements.

202. Exceptions to Licensing Standards.

Revise Section 61-16.101.G to read:

G. Dietitian: An individual who is registered by the Commission on Dietetic Registration and currently licensed as a dietitian by the South Carolina Department of Labor, Licensing and Regulation.

Revise Section 61-16.201 to read:

Section 201. License Requirements.

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise or market) as a hospital or institutional general infirmary in South Carolina without first obtaining a license from the Department. Admission of patients or the provision of care, treatment, and/or services to patients prior to the effective date of licensure is a violation of S.C. Code Ann. Section 44-7-260(A) (1976, as amended). (I)

B. A license shall be effective for a period of time specified by the Department.

C. A new facility, or one that has not been continuously licensed under these or prior standards, shall not admit patients until permission is granted by the Department.

D. Hospitals that provide services to patients requiring skilled nursing care must maintain a separate license for the areas where the services are provided.

E. Upon receipt of a written request from the hospital authorities to the Department requesting such certification, any general hospital having a current license to operate may be certified as a suitable facility for the performance of abortions. A hospital shall comply with Chapter 41 of Title 44 of the S.C. Code of Laws. (I)

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F. Applicants for a license shall file application under oath on a form and frequency specified by the Department. An application shall be signed/authenticated by the owner, if an individual or partnership; or in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction over it. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in case his address is different from that of the facility; the names of persons in control thereof and such additional information as the Department may require, including affirmative evidence of ability to comply with reasonable standards, rules and regulations as may be lawfully prescribed. No proposed hospital shall be named nor may an existing hospital have its name changed to the same or similar name as a hospital licensed in the State.

G. Licensing Fees. The initial and annual license fee shall be ten dollars (\$10.00) per licensed bed. Annual license fees must also include any outstanding inspection fees. Such fees shall be made payable by check or credit card to the Department.

H. A facility shall request issue of an amended license, by application to the Department prior to any of the following circumstances:

1. Change of ownership by purchase or lease;
2. Change of facility's name;
3. Addition or replacement of beds (an inspection will be required prior to issuance of license);
4. Deletion of beds; or
5. Reallocation of types of beds as shown on license.

Delete Section 61-16.202 entirely:

Revise Section 61-16.203 to read:

Section 202. Exceptions to Licensing Standards.

The Department reserves the right to make exceptions to these standards where it is determined that the health and welfare of the community requires the services of the facility. When an "exception" applies to an existing facility, it will continue to meet the standards in effect at the time it was licensed.

Add Section 61-16.302.F to read:

Section 302. Inspections and Investigations.

F. In accordance with S.C. Code Section 44-7-270, the Department may charge a fee for inspections. The fee for initial and biennial routine inspections shall be four hundred fifty dollars (\$450.00) plus ten dollars (\$10.00) per licensed bed. The fee for initial unit increase or service modification is two hundred fifty dollars (\$250.00) plus ten dollars (\$10.00) per licensed bed. The fee for follow-up inspections shall be two hundred fifty dollars (\$250.00) plus ten dollars (\$10.00) per licensed bed.

Revise Section 61-16.1303.A to read:

Section 1303. Providing a Safe Haven for Abandoned Babies.

Facilities and outpatient facilities shall:

A. Accept temporary physical custody of an infant not more than sixty (60) days old who is voluntarily left by a person who does not express an intent to return for the infant and the circumstances create a reasonable belief that a person does not intend to return for the infant.

Revise Section 61-16.1505 to read:

Section 1505. Diets.

Diets shall be prepared in conformance with orders of a physician or, if permitted by the facility's policies, a dietitian. A current diet manual shall be readily available to attending physicians, food and nutrition service personnel, nursing personnel, and dietitians.

A. Diets shall be prescribed, dated and signed or authenticated by the physician or dietitian.

B. Facilities with patients in need of special or therapeutic diets shall provide for such diets.

C. Notations shall be made in the medical record of diet served, counseling or instructions given, as identified by patient and/or nutritional assessment and patient's tolerance of the diet.

D. Diets shall be planned, written, prepared and served with consultation from a dietitian.

E. Persons responsible for diets shall have sufficient knowledge of food values in order to make substitutions when necessary. All substitutions made on the master menu shall be documented.

F. Nothing in this regulation shall be read or interpreted to prohibit a facility's policies from allowing a dietitian to:

1. Order or prescribe patient diets, including therapeutic diets;
2. Order laboratory tests to monitor the effectiveness of dietary plans and orders; and/or
3. Make subsequent modifications to patient diets based on the results of laboratory tests.

Revise Section 61-16.1903 to read:

Section 1903. Submission of Plans.

A. When construction is contemplated either for new buildings, additions or major alterations or replacement to existing buildings, buildings being licensed for the first time, buildings changing license type, or facilities increasing occupant load/licensed capacity, plans and specifications shall be submitted to the Department for review. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. These submissions shall be made in at least three stages: schematic, design development, and final. All plans shall be drawn to scale with the title, stage of submission and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction the owner shall employ a registered architect and/or engineer for supervision and inspections. The Department shall conduct periodic inspections throughout each project.

B. When alterations are contemplated that are new construction, or projects with changes to the physical plant of a licensed facility which has an effect on: the function, use or accessibility of an area; structural integrity; active and passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required

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to be under the said hood); door, wall and ceiling system assemblies; exit corridors; Increase the occupant load/licensed capacity; and projects pertaining to any life safety systems, require preliminary drawings and specifications, accompanied by a narrative completely describing the proposed work, shall be submitted to the Department. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications, kept on file at the facility and made available to the Department.

C. All subsequent addenda, change orders, field orders, and documents altering the Department review must be submitted. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

D. The licensee shall pay the following inspection fees during the construction phase of the project. The plan inspection fee is based on the total estimated cost of the project whether new construction, an addition, or a renovation. The fees are detailed in the table below.

Construction Inspection Fees	
Plan Inspection	
Total Project Cost	Fee
< \$10,001.00	\$750
\$10,001 - \$100,000	\$1,500
\$100,001 - \$500,000	\$2,000
> \$500,000	\$2,500 plus \$100 for each additional \$100,000 in project cost
Site Inspection	
50% Inspection	\$500
80% Inspection	\$500
100% Inspection	\$500

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 inherent requirements of this regulation. There are no external costs anticipated.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries.

Purpose: The purpose of these amendments to R.61-16 is to update statutory requirements recently enacted by the General Assembly. These amendments include incorporation of provisions allowing dietitians to prescribe diets and other dietary services; new requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; adding existing inspection and construction fees; and new requirements relating to safe havens.

Legal Authority: 1976 Code Sections 44-7-110 through 44-7-394 and 44-41-70(a).

Plan for Implementation: Copies of the regulation will be available electronically on the South Carolina Legislature website and the Department regulation development website (<http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate>). Printed copies will be available for a fee from the Department's Freedom of Information Office.

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

These amendments are necessary to incorporate recent statutory changes for abortion services and safe haven requirements. Additionally, the amendments incorporate provisions allowing dietitians to prescribe diets and other dietary services, and incorporate existing inspections and construction fees.

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. Amendments to R.61-16 update statutory requirements enacted by the General Assembly, update requirements for dietitians, and incorporate existing inspection and construction fees.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-16 seek to support the Department's goals relating to the protection of public health through the anticipated benefits highlighted above. There is no anticipated effect on the environment.

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

There is no anticipated detrimental effect on the environment. If the revision is not implemented, the regulation will be maintained in its current form without realizing the benefits of the amendments herein.

Statement of Rationale:

The Department of Health and Environmental Control is amending Regulation 61-16. These amendments are necessary to incorporate recent changes in state law as well as changes to current practices and standards. The amendments incorporate provisions allowing dietitians to prescribe diets and other dietary services; incorporate requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; incorporate existing inspection and construction fees; and incorporate new safe haven requirements.

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Document No. 4760
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-61-610 et seq.

61-118. South Carolina Stroke Care System.

Synopsis:

The Department of Health and Environmental Control (“Department”) has promulgated this new regulation to execute the requirements of the Stroke System of Care Act of 2011, S.C. Code Sections 44-61-610 et seq. (Supp. 2016). The regulation establishes a process of application and recognition of acute care hospitals wishing to be recognized as stroke centers within South Carolina. The regulation establishes a statewide stroke registry for the collection and analysis of stroke care by acute care hospitals within the state. Additionally, the regulation adopts a nationally recognized, standardized stroke-triage assessment tool, posted on the Department’s website and distributed to all Emergency Medical Services (“EMS”) agencies licensed by the Department. The Department had a Notice of Drafting published in the *State Register* on April 28, 2017.

Changes made at the request of the Senate Medical Affairs
Committee by letter dated February 16, 2018:

Section 202.E. Requirements for additional information as part of the application process has been removed.

Section 302. Language allowing the Department to make exceptions to standards has been removed.

Section 301. Section 301 was re-codified to Section 300 to account for this section no longer having a Section 302.

Section 600. Severability language has been removed.

Section 700. Requirements for conditions not addressed in this regulation have been removed.

Table of Contents was adjusted in accordance with the above changes.

Section-by-Section Discussion of Final Regulation submitted
by the Department of Health and Environmental Control on
January 9, 2018, for legislative review:

TITLE: 61-118, South Carolina Stroke Care System

TABLE OF CONTENTS

The table of contents was added.

Section 100. DEFINITIONS

The definitions of 100.A Acute Care Hospital, 100.B Acute Stroke Ready Hospital, 100.C Certificate of Recognition, 100.D Certificate Holder, 100.E Comprehensive Stroke Center, 100.F Department, 100.G Emergency Medical Services, 100.H Primary Stroke Center, 100.I Recognition, 100.J State Stroke Registry Database, 100.K Stroke Advisory Council, 100.L Stroke Care System, 100.M Stroke Center, 100.N Stroke Patient, 100.O Telemedicine-Enabled Stroke Center, and 100.P Thrombectomy-Capable Stroke Center were added.

Section 200. RECOGNITION PROCESS

Section 200 delineates the process for recognition by the Department.

Section 201. Eligibility for Recognition

Section 201 allows for any acute care hospital certified or accredited as a Stroke Center by the Joint Commission or other nationally recognized organization to apply to the Department for recognition.

Section 202. Application Process

Section 202 outlines the process for application to the Department for recognition and delineates the required documentation therein.

Section 203. Recognition Renewal

Section 203 states that recognition expires upon expiration of current disease-specific certification or accreditation by the Joint Commission or other nationally recognized organization.

Section 204. Recognition Levels

Section 204 delineates the available levels of recognition and states that the Department may adopt and recognize any certification or accreditation by nationally recognized organizations that may become available at a later date.

Section 205. Recognition

Section 205 delineates the Department's process for recognizing hospitals under the requirements of this regulation.

Section 206. Process of Re-recognition

Section 206 delineates the process for acute care hospitals seeking recognition after previously, but no longer, being a Certificate Holder.

Section 300. CERTIFICATE OF RECOGNITION REQUIREMENTS

Section 300 outlines the Certificate of Recognition requirements.

Section 301. Issuance and Terms of the Certificate of Recognition

Section 301 delineates the terms of certificates indicating Recognition and states that a Certificate of Recognition is not assignable or transferable.

Section 302. Exceptions to the Standards

Section 302 was added to grant the Department authority to make exceptions to these standards when the health and safety of patients will not be compromised and the standard is not specifically required by statute.

Section 400. STATEWIDE SYSTEM OF STROKE CARE

Section 400.A requires licensed EMS providers to utilize the South Carolina Stroke Assessment and Triage tool identified by the Department in the SC EMS Protocol "Suspected Stroke." Section 400.B requires that after July 1, 2019, licensed EMS providers to utilize the SC EMS Protocol "Adult Stroke Patient Destination Determination by Stroke Center Capability" for transport of acute stroke patients to the closest stroke center within a specified timeframe of onset of symptoms unless one (1) or more exceptions listed therein applies.

Section 500. STATE STROKE REGISTRY DATABASE

Section 500 outlines the requirements of submission to the State Stroke Registry Database.

Section 501. Data Submission

Section 501 requires Certificate Holders to participate in the State Stroke Registry Database and outlines the required schedule for submission.

Section 502. Inclusion and Exclusion Criteria

Section 502 states that patient inclusion and exclusion criteria will be established by the Department under the guidance of the Stroke Advisory Council and maintained in the State Stroke Registry Guidelines.

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Section 503. Confidentiality Protection of Data and Reports

Section 503 requires that reports show only general information and shall not identify any protected information or hospital information.

Section 600. SEVERABILITY

Section 600 was added to allow the regulation to remain valid should it be determined that a portion of the regulation be invalid or unenforceable.

Section 700. GENERAL

Section 700 was added to allow the Department to utilize best practices to manage any conditions not covered by these regulations.

Instructions:

Add new Regulation 61-118, South Carolina Stroke Care System, to Chapter 61 regulations in the South Carolina Code of Regulations.

Text:

61-118. South Carolina Stroke Care System.

TABLE OF CONTENTS:

SECTION 100 – DEFINITIONS

SECTION 200 – RECOGNITION PROCESS

- 201. Eligibility for Recognition
- 202. Application Process
- 203. Recognition Renewal
- 204. Recognition Levels
- 205. Recognition
- 206. Process of Re-recognition

SECTION 300 – ISSUANCE AND TERMS OF THE CERTIFICATE OF RECOGNITION

SECTION 400 – STATEWIDE SYSTEM OF STROKE CARE

SECTION 500 – STATE STROKE REGISTRY DATABASE

- 501. Data Submission
- 502. Inclusion and Exclusion Criteria
- 503. Confidentiality Protection of Data and Reports

SOUTH CAROLINA STROKE CARE SYSTEM

SECTION 100

DEFINITIONS

A. Acute Care Hospital. A hospital licensed by the Department that has facilities, medical staff and all necessary personnel to provide diagnosis, care, and treatment of a wide range of acute conditions, including injuries.

B. Acute Stroke Ready Hospital (“ASRH”). Disease-specific certification by the Joint Commission or other nationally recognized organization at the level of Acute Stroke Ready Hospital and recognized by the Department.

C. Certificate of Recognition. A document issued by the Department to an Acute Care Hospital indicating the Department has recognized the Acute Care Hospital as a Stroke Center at a stroke Recognition level appearing in Section 204 of this regulation.

D. Certificate Holder. An Acute Care Hospital with a current Certificate of Recognition from the Department and with whom rests the ultimate responsibility for compliance with this regulation.

E. Comprehensive Stroke Center (“CSC”). Disease-specific certification by the Joint Commission or other nationally recognized organization at the level of Comprehensive Stroke Center, and recognized by the Department.

F. Department. The South Carolina Department of Health and Environmental Control (“DHEC”).

G. Emergency Medical Services (“EMS”). The treatment and transport of patients in crisis health situations occurring from a medical emergency or from an accident, natural disaster, or similar life-threatening situation, through a system of coordinated response and emergency medical care.

H. Primary Stroke Center (“PSC”). Disease-specific certification by the Joint Commission or other nationally recognized organization at the level of Primary Stroke Center, and recognized by the Department.

I. Recognition. The formal determination by the Department that an Acute Care Hospital is certified or accredited to provide a particular level of stroke care services.

J. State Stroke Registry Database. The stroke data collection and evaluation system, also known as “Get With The Guidelines-Stroke,” designed to include, but not be limited to, stroke studies, patient care and outcomes, and severity of illness in the State. The data elements collected in the State Stroke Registry Database are determined by the Department with collaboration from the Stroke Advisory Council.

K. Stroke Advisory Council (“SAC”). Stroke System of Care Advisory Council created pursuant to S.C. Code Section 44-61-650(A).

L. Stroke Care System. An organized statewide system of care for the Stroke Patient, including the Department, EMS providers, hospitals, inpatient rehabilitation providers, and other providers who have agreed to participate in coordinating stroke care services and who have been recognized by the Department in an organized statewide system.

M. Stroke Center. A hospital recognized by the Department as certified or accredited by the Joint Commission or another nationally recognized organization that provides disease-specific certification or accreditation for stroke care.

N. Stroke Patient. An individual being treated for a sudden brain dysfunction due to a disturbance of cerebral circulation. The resulting impairments include, but are not limited to, paralysis, slurred speech, and/or vision loss. Strokes can be classified as either ischemic or hemorrhagic.

O. Telemedicine-Enabled Stroke Center. A center utilizing interactive audio, video, and other electronic media for the purpose of diagnosis, consultation, or treatment of acute stroke. Telemedicine-Enabled Stroke Centers offer telemedicine services for stroke on a twenty-four (24) hour, seven (7) day per week basis, have a transfer plan in place with at least one (1) PSC or CSC, and report a minimum of four (4) performance measures

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of their choosing, at least two (2) of which are clinical measures related to clinical practice guidelines, quarterly to the State Stroke Registry Database.

P. Thrombectomy-Capable Stroke Center (“TSC”). Disease-specific certification by the Joint Commission or other nationally recognized organization at the level of Thrombectomy-Capable Stroke Center, and recognized by the Department.

SECTION 200

RECOGNITION PROCESS

201. Eligibility for Recognition

A. Any Acute Care Hospital certified or accredited as a stroke center by the Joint Commission or other nationally recognized organization that provides disease-specific certification or accreditation for stroke care may apply to the Department for Recognition.

B. In order to maintain Department Recognition, an Acute Care Hospital shall maintain certification or accreditation as a stroke center by the Joint Commission or from an equivalent process by another nationally recognized organization that provides disease-specific certification or accreditation for stroke care.

C. Any facility that no longer meets nationally recognized, evidence-based standards as a stroke center, or no longer possesses disease-specific certification or accreditation for stroke care, shall notify the Department within thirty (30) business days as required by S.C. Code Section 44-61-640(D), and surrender the Certificate of Recognition to the Department.

202. Application Process

A. An Acute Care Hospital seeking Recognition shall submit to the Department a completed application. The application shall include the applicant’s attestation assuring that the contents of the application and other requested documents are accurate and true. The application shall be authenticated as follows:

1. If the applicant is an individual or a partnership, the application shall be signed by the owner(s);
2. If the applicant is a corporation, nonprofit organization, or limited liability company, the application shall be signed by two (2) of its officers;
3. If the applicant is a governmental unit, the application shall be signed by the head of the governmental unit having jurisdiction.

B. The application shall set forth the full name and address of the Acute Care Hospital for which the Recognition is sought, and the name and address of the owner of the facility in the event that his or her address is different from that of the facility. In the event of a change in ownership of the Acute Care Hospital, the Department shall be notified in writing within forty-eight (48) hours of the change.

C. The application shall include a copy of the full accreditation report by the Joint Commission or other nationally recognized organization at the level of Recognition requested.

D. The application shall include signed copies of agreements to allow the Department to access data submitted to the State Stroke Registry Database.

203. Recognition Renewal

- A. Recognition shall expire upon expiration of current disease-specific certification or accreditation for stroke care by the Joint Commission or other nationally recognized organization.
- B. To maintain Recognition, an Acute Care Hospital shall renew its recognition upon renewal of current disease-specific certification or accreditation for stroke care as required by the Joint Commission or other nationally recognized organization.
- C. The application process for renewal shall follow the same process outlined in Section 202.

204. Recognition Levels

- A. Recognition Levels by the Department for Stroke Centers include Acute Stroke Ready Hospital (“ASRH”), Primary Stroke Center (“PSC”), Thrombectomy-Capable Stroke Center (“TSC”), and Comprehensive Stroke Center (“CSC”).
- B. As nationally recognized, disease-specific certification or accreditation programs become available at more comprehensive and less comprehensive levels, the Department may adopt and recognize those hospitals that have achieved the certification or accreditation.

205. Recognition

- A. Recognition is based upon Department review and verification of the application and its supporting documents, as indicated in Section 202. Failure to meet recognition requirements, misrepresentation, and/or false information provided by the hospital is grounds for denial.
- B. Upon approval, the Department will issue a Certificate of Recognition to the hospital denoting the Recognition level. The Department will also place the name of the hospital and its corresponding Recognition level on the Department’s website.

206. Process of Re-recognition

An Acute Care Hospital seeking Recognition after previously, but no longer, being a Certificate Holder shall follow the Recognition procedures outlined in Section 202.

SECTION 300

ISSUANCE AND TERMS OF THE CERTIFICATE OF RECOGNITION

- A. The issuance of a Certificate of Recognition does not guarantee adequacy of individual care, treatment, procedures, and/or services, personal safety, fire safety, or the well-being of any patient.
- B. A Certificate of Recognition is not assignable or transferable.
- C. A Certificate of Recognition shall be effective for a specific Stroke Center at a specific physical location. A Certificate of Recognition shall remain in effect until expiration of current disease-specific certification or accreditation.

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SECTION 400

STATEWIDE SYSTEM OF STROKE CARE

A. Licensed EMS providers shall establish a stroke assessment and triage system that incorporates the South Carolina Stroke Assessment and Triage tool identified by the Department and located in the SC EMS Protocol “Suspected Stroke.”

B. After July 1, 2019, licensed EMS providers shall utilize SC EMS Protocol “Adult Stroke Patient Destination Determination by Stroke Center Capability” for transport of acute Stroke Patients to the closest Stroke Center within a specified timeframe of onset of symptoms unless one (1) or more of the following exceptions apply:

1. It is medically necessary to transport the patient to another hospital;
2. It is unsafe or medically inappropriate to transport the patient directly to a Stroke Center due to adverse weather or ground conditions;
3. Transporting the patient to a Stroke Center would cause a shortage of local EMS resources (defined as no resources available for longer than thirty (30) minutes in a reasonable response area) and air transport is unavailable;
4. No appropriate Stroke Center is able to receive and provide stroke care to the Stroke Patient without undue delay; or
5. Before transport of a patient begins, the patient requests to be taken to a particular hospital that is not a Stroke Center or, if the patient is less than eighteen (18) years of age or is not able to communicate, such request is made by an adult member of the patient’s family or a legal representative of the patient.

SECTION 500

STATE STROKE REGISTRY DATABASE

501. Data Submission

A. All Certificate Holders shall participate in the State Stroke Registry Database by:

1. Submitting data identified by the Department to the State Stroke Registry Database; and
2. Signing and completing agreements to allow the Department to access data submitted to the State Stroke Registry Database.

B. The Certificate Holder shall ensure that all data is submitted to the State Stroke Registry Database quarterly, as outline below. The Certificate Holder shall ensure that the data entered in the State Stroke Registry Database is accurate and complete.

Admission Period	Due Date
January – March	July 1
April – June	October 1
July – September	January 1
October – December	April 1

502. Inclusion and Exclusion Criteria

Patient inclusion and exclusion criteria shall be established by the Department under the guidance of the Stroke Advisory Council and maintained in the State Stroke Registry Guidelines.

503. Confidentiality Protection of Data and Reports

Information that identifies individual patients shall not be disclosed. Reports that do not contain protected health information or any identifiable information may be generated and distributed. Such reports shall not identify any protected information or hospital information.

Fiscal Impact Statement:

There is no anticipated additional cost by the Department or State government due to any requirements of this regulation. There are no external costs anticipated.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-118, South Carolina Stroke Care System.

Purpose: The purpose of this new regulation is to establish a process of application and recognition of acute care hospitals wishing to be recognized as Stroke Centers within the State, encourage Stroke Centers to submit data to the State Stroke Registry Database, and establish a statewide stroke assessment and triage tool for EMS. This regulation seeks to direct EMS agencies to transport stroke patients to appropriate facilities to treat stroke patients in a timely manner.

Legal Authority: 1976 Code Sections 44-61-610 et seq.

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

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

Pursuant to S.C. Code Section 44-61-640(B) (Supp. 2016), the Department must establish a process to recognize acute care hospitals as Stroke Centers within the State, given an applicant is certified as a Stroke Center by the Joint Commission or another nationally recognized organization that provides disease-specific certification or accreditation for stroke care. Furthermore, the Department must supply a list of these recognized Stroke Centers to EMS agencies and create and provide a statewide stroke assessment-triage tool. This regulation establishes the process of recognition of Stroke Centers, requires the use of a statewide stroke assessment-triage tool and transport plan, and outlines the process to participate in the State Stroke Registry Database.

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DETERMINATION OF COSTS AND BENEFITS:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost to the Department, State government, or the regulated community due to any inherent requirements of this regulation.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The regulation seeks to support the Department's goals relating to protection of public health through the anticipated benefits highlighted above. There is no anticipated effect on the environment.

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

There is no anticipated detrimental effect on the environment. If the regulation is not implemented, transport of stroke patients within the State by EMS agencies will be up to the determination and agreements between EMS agencies and the local hospitals regardless of their certification as Stroke Centers.

Statement of Rationale:

This new regulation addresses the requirements of the Stroke System of Care Act of 2011. This regulation is necessary to establish a process of application and recognition of acute care hospitals wishing to be recognized as Stroke Centers within South Carolina. The regulation establishes a State Stroke Registry Database for the collection and analysis of stroke care by acute care hospitals within the State. Finally, the regulation adopts a nationally recognized, standardized stroke-triage assessment tool to be posted on the Department's website and distributed to all EMS agencies licensed by the Department.

Document No. 4746
DEPARTMENT OF HEALTH AND HUMAN SERVICES
CHAPTER 126
Statutory Authority: 1976 Code Section 44-6-90

- 126-400. Definitions.
- 126-401. Sanctions.
- 126-403. Grounds for Sanction.
- 126-404. Fair Hearings.
- 126-405. Reinstatement.
- 126-425. Recipient Utilization.
- 126-500. Definitions.
- 126-505. Responsibilities for Eligibility Determination.
- 126-510. Application Process.
- 126-540. Recovery by the Medically Indigent Assistance Program.
- 126-560. The Commission shall use a prospective payment system which considers diagnostic related groupings and per diem costs to reimburse hospitals for inpatient services provided to Medically Indigent recipients.
- 126-570. Grace Period.
- 126-710. General.
- 126-720. Scope of Program and Services.
- 126-730. Persons Eligible to Receive Social Services.

- 126-740. Application Procedures.
- 126-750. Client Right to Appeal.
- 126-799. Prior Regulations.
- 126-800. Definitions.
- 126-810. Imposition of Sanctions.
- 126-830. Assessment of Sanctions.
- 126-840. Schedule of Sanctions.

Synopsis:

The South Carolina Department of Health and Human Services is proposing to amend Article 4, Article 5, Article 7 and Article 8 of Chapter 126 of the South Code of Regulations to update outdated references, to more accurately reflect administration of the Agency's programs and to remove sections that are no longer administered by the Agency.

The Notice of Drafting was published in the *State Register* on December 23, 2016.

Instructions:

Replace the regulations as shown below. Unless specifically listed as a change, all other existing regulations remain intact.

Text:

ARTICLE 4
PROGRAM EVALUATION

SUBARTICLE 1
ADMINISTRATIVE SANCTIONS AGAINST MEDICAID PROVIDERS

126-400. Definitions.

A. Provider - means an individual, firm, corporation, association or institution which is providing, or has been approved to provide, medical assistance to a beneficiary pursuant to the State Medical Assistance Plan and in accord with Title XIX of the Social Security Act of 1932, as amended.

B. Person - any natural person, company, firm, association, partnership, corporation or other legal entity.

C. Practitioner - means a physician or other health care professional licensed under State law to practice his or her profession.

D. Educational Intervention - means a visit to a provider by a staff member to explain Medicaid Program policies and procedures. This includes instructions on correct billing procedures. Educational intervention may also take the form of a telephone call or letter to a provider calling his or her attention to a particular problem in Program administration or billing practices.

E. Abuse - provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid Program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

F. Fraud - an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law. [42 CFR §455.2].

G. Conviction or convicted - means a judgment or conviction after trial, or the entry of a plea of guilty or a plea of no contest (*nolo contendere*) in a federal, state or local court, regardless of whether an appeal from that judgment is pending.

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H. Exclusion - means that a health care provider, either an individual practitioner or facility, organization, institution, business, or other type of entity, cannot receive Medicaid payment for any health care services rendered. [42 CFR §455.2].

I. Suspension of Payment - means that upon determination by the Department that there is a credible allegation of fraud against a specified provider for which an investigation is pending under the Medicaid program, all payments pending at the time of determination and all payments for items or services furnished by the specified provider will be retained by the Department until resolution of the investigation, unless the Department determines that good cause to not suspend or to only suspend in part exists, as set forth in 42 CFR §455.23(e) and §455.23(f) respectively. [§455.23].

J. Termination - occurs when the Medicare program, a State Medicaid program, or Children's Health Insurance Program (CHIP) has taken an action to revoke a provider's billing privileges, a provider has exhausted all applicable appeal rights or the timeline for appeal has expired, and there is no expectation on the part of a provider or supplier or the Medicare program, State Medicaid program, or CHIP that the revocation is temporary. The requirement for termination based upon a termination in another program applies in cases where providers, suppliers, or eligible professionals were terminated or had their billing privileges revoked for cause which may include reasons based on fraud, integrity, or quality. [Section 6501 of the Affordable Care Act amended section 1902(a)(39) of the Social Security Act (the Act) and requires State Medicaid agencies to terminate the participation of any individual or entity if such individual or entity is terminated under Medicare or under the Medicaid program or CHIP of any other state].

K. Suspension - means that items or services furnished by a specified provider who has been convicted of a program-related offense in a Federal, State, or local court will not be reimbursed under Medicaid.[42 CFR §455.2].

126-401. Sanctions.

A. The Administrator of the Title XIX Single State Agency may invoke one (1) or more of the following administrative sanctions against a Medicaid provider who has been determined to have abused the Medicaid Program:

- (1) Educational Intervention;
- (2) Postpayment Review of Claims;
- (3) Prepayment Review of Claims;
- (4) Referral to Licensing/Certifying Boards or Agencies;
- (5) Peer Review;
- (6) Suspension;
- (7) Termination.

B. The Administrator of the Title XIX Single State Agency may invoke one (1) or more of the following administrative sanctions against a Medicaid provider who has been determined to be guilty of fraud or convicted of a crime related to his or her participation in Medicare or Medicaid, or for any reason for which the Secretary of the United States Department of Health and Human Services could exclude an individual or entity under 42 CFR §§ 1001 and 1003. [42 CFR § 1002.210]:

- (1) Suspension;
- (2) Termination;
- (3) Exclusion.

126-402. Factors for Sanction.

The factors to be considered in determining sanctions shall include, but not be limited to, the following:

- A. Seriousness of the offense(s);
- B. Extent of violation(s);
- C. History of prior violation(s);
- D. Prior imposition of sanction(s);
- E. Provider failure to obey program rules and policies as specified in the appropriate Provider Manual or other official notices.

126-403. Grounds for Sanction.

The grounds for sanctioning providers shall include, but not be limited to, the following:

- A. Presenting or causing to be presented for payment any false or fraudulent claim for services or merchandise.
- B. Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled, including charges in excess of the fee schedule or usual and customary charges.
- C. Submitting or causing to be submitted false information for the purpose of meeting prior authorization requirements.
- D. Failure to disclose or make available to the Single State Agency or its authorized agent records of services provided to Medicaid beneficiaries and records of payment made therefore.
- E. Continuing a course of conduct deemed abusive of the Medicaid Program after receiving written notice from the Single State Agency that said conduct must cease, provided that the written notice shall specify the practices deemed abusive.
- F. Breach of the terms of the Medicaid provider agreement or failure to comply with the terms of provider certification on the Medicaid claim form.
- G. Over-utilizing the Medicaid Program by including, furnishing, or otherwise causing a beneficiary to receive service(s) or merchandise not otherwise required by the beneficiary.
- H. Rebating or accepting a fee or portion of a fee or charge for a beneficiary referral.
- I. Submission of a false or fraudulent application for provider status.
- J. Conviction against a provider for a criminal offense related to his or her involvement in the Medicaid or Medicare Program.
- K. Failure to meet standards required by State or Federal law for Medicaid participation (i.e., failed to meet the licensing requirements constituting minimum qualification).
- L. Exclusion from Medicare because of fraudulent or abusive practices (i.e., terminated or suspended from participation in the Medicare Program under 42 CFR, Part 1001.)
- M. Failure to correct deficiencies in provider operations after receiving written notice of these deficiencies from the Single State Agency.
- N. Failure to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments.
- O. Termination for cause under Medicare or under the Medicaid or CHIP program of any other State [42 CFR § 455.416 and Section 6501 of the Affordable Care Act]

126-404. Fair Hearings.

A. Any Medicaid provider who has been notified in writing by the Single State Agency of a proposed recoupment of overpayments, a proposed exclusion, suspension or termination due to an administrative determination of abuse, or a proposed exclusion, suspension or termination due to a program related conviction in a state or federal court, may exercise his right to a fair hearing pursuant to R.126-150 prior to implementation of the proposed action. This subparagraph applies only to postpayment reviews of providers which are conducted by the Department. Further, this subparagraph shall not apply in the case of a provider who has been excluded, suspended or terminated from participation in the Medicare program, in which case the provisions of 42 CFR, Part 1001, shall apply.

B. Any individual Medicaid practitioner who has been convicted of a criminal offense related to his involvement in the Medicare or Medicaid Program and who is subsequently excluded, suspended or terminated pursuant to 42 CFR Section 402, Subpart C, may exercise his appeal rights as set forth in the written notice of exclusion, suspension or termination from the Centers for Medicare and Medicaid Services. Appeals to the Centers for Medicare and Medicaid Services shall be processed exclusively in accordance with 42 CFR Part 1005.

126-405. Reinstatement.

An individual or entity who has been excluded from Medicaid may be reinstated only by the Medicaid agency that imposed the exclusion. An individual or entity may submit to the State agency a request for reinstatement at any time after the date specified in the notice of exclusion [42 CFR § 1002.214(b) and (c)].

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SUBARTICLE 2 PROGRAM INTEGRITY

126-425. Beneficiary Utilization.

A. Definitions.

(1) The Division of Program Integrity of the South Carolina Department of Health and Human Services (DHHS) is designed to safeguard against unnecessary, harmful, wasteful, and uncoordinated utilization of services by Medicaid eligible beneficiaries and health care providers.

(2) Medicaid Beneficiary - an individual who has been determined to be eligible for health services as described in the State Plan under Title XIX and Title XXI of the Social Security Act, as amended.

(3) Beneficiary Profile - a comprehensive statistical and utilization profile of a Medicaid beneficiary who has deviated from predefined thresholds, standards of medical care, and other criteria for the purposes of analysis and review.

(4) Misutilization (“misuse”) - overuse, underuse, harmful, wasteful, and uncoordinated use of Medicaid services or improper or incorrect use of services provided under the Medicaid Program, whether intentional or unintentional.

(5) Restriction (“restricted”) - The limitation of a Medicaid beneficiary to Medicaid services provided by a designated primary physician practitioner, pharmacy, hospital, or mental health provider for other than emergency health care. A restriction may be to more than one provider. A designated primary physician practitioner may make referrals to other health care providers, which will not be affected by the restriction designation.

(6) Provider - an individual, partnership, corporation, association, or institution that is eligible to provide medical assistance to a beneficiary pursuant to the State Medical Assistance Plan in accordance with Title XIX and Title XXI of the Social Security Act, as amended. A provider must be licensed, as applicable, under State law, is in good standing with applicable professional review boards, has not had a license revoked or suspended, and has not been convicted of fraud in any legal jurisdiction.

(7) Practitioner - a physician or other health care professional licensed under State law to practice his or her profession, is in good standing with applicable professional review boards, has not had a license revoked or suspended, and has not been convicted of fraud in any legal jurisdiction.

(8) Treatment Pathway - is the most appropriate medical condition specific treatment protocol. Treatment pathways have been researched and approved by professional associations, provide desired outcomes, include definitive evaluation and re-evaluation plateaus, offer a coordinated health team approach to care, eliminate duplication of costly services, and reduce errors.

(9) Medically Reasonable and Necessary (“medically necessary”) - means procedures, treatments, medications or supplies ordered by a physician, dentist, chiropractor, mental health care provider, or other approved, licensed health care practitioner to identify or treat an illness or injury. Procedures, treatments, medications or supplies must be administered in accordance with recognized and acceptable medical and/or surgical discipline at the time the patient receives the service and in the least costly setting required by the patient’s condition. All services administered must be in compliance with the patient’s diagnosis, standards of care, and not for the patient’s convenience. The fact that physician prescribed a service or supply does not deem it medically necessary.

B. Beneficiary Policies.

(1) The services that are governed by this program are as follows:

- (a) All medical services rendered by a Medicaid provider for non-emergency services;
- (b) Beneficiaries’ use of Medicaid services;

(2) Services that are not governed by this program are as follows:

- (a) Emergency services which are necessary to prevent death or serious impairment of the health of a beneficiary;
 - (b) Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;
- (3) Beneficiary profiles shall be reviewed to identify potential utilization or compliance issues.
- (4) Providers shall refer suspected misusers of Medicaid services to the DHHS.

(5) Beneficiaries identified as suspected misusers of Medicaid services will be notified in writing that he/she will be restricted subject to paragraph A (5). The period of restriction shall be in accordance with 42 CFR 431.54(e). DHHS shall monitor restricted beneficiaries' utilization patterns.

(6) The factors to be considered in making a determination whether to implement a restriction shall include all or some of the following:

- (a) Medical factors;
- (b) Patient utilization history;
- (c) The degree of aberrancy;
- (d) Any history of prior misutilization;
- (e) Utilization patterns inconsistent with their peers;
- (f) Utilization patterns inconsistent with treatment pathways;
- (g) Evidence of abusive, duplicative, and wasteful utilization practices;
- (h) Evidence of drug-seeking behaviors;
- (i) Evidence of utilization patterns that could cause harm to the beneficiary;
- (j) The degree of compliance with medical advice and treatment pathways;
- (k) Evidence that a beneficiary's medical outcomes and health status may be improved by following treatment pathways and coordinated care.

(7) Rights and conditions of beneficiary during restriction period.

(a) Beneficiaries will be notified by mail of a pending restriction or action subject to 42 CFR 431.206 through 42 CFR 431.214.

(b) Beneficiaries are given freedom of choice of their primary providers. If a beneficiary does not select a primary provider, DHHS may select one for the beneficiary.

(c) A beneficiary will be released from restriction upon DHHS determination that the beneficiary's service utilization patterns are in compliance with treatment pathways and consistent with their medical needs.

(8) Fair Hearing - any Medicaid beneficiary who has been notified in writing by DHHS or its designee of a pending restriction due to misutilization of Medicaid services may exercise his/her right to a fair hearing. Notice will be given pursuant to 42 CFR 431, Subpart E and the Fair Hearing will be conducted pursuant to R.126-150 et seq. and 42 CFR 431, Subpart E.

**ARTICLE 5
MEDICALLY INDIGENT ASSISTANCE PROGRAM (MIAP)**

**SUBARTICLE 1
ELIGIBILITY FOR THE MEDICALLY INDIGENT ASSISTANCE PROGRAM (MIAP)**

126-500. Definitions.

A. "Department" means the South Carolina Department of Health and Human Services.

B. "County resident" means an individual who is a state resident and who lives in a particular county. For the purpose of determining eligibility for the MIAP, an individual who does not have an established residence in a particular county is considered a resident of the county in which the admitting hospital is located. For the purpose of computing the county assessment pursuant to 44-6-146(B), Code of Laws of South Carolina (1976), as amended, an individual with no established residence shall be excluded from the computation.

C. "Designee" means the entity with which the county government has arranged to determine eligibility for the MIAP.

D. "Family" means the applicant and legally responsible relatives who live in the same household. If the applicant is legally or financially dependent upon another person, the applicant, the responsible person, and all persons related to the applicant by birth, marriage, or adoption who are also legally or financially dependent upon the responsible person and who reside in the same household as the responsible person are considered members of the same family. If the applicant is not legally or financially dependent upon another person, the applicant and all persons related to the applicant by birth, marriage, or adoption who are also legally or financially dependent upon the applicant and who reside in the same household as the applicant are considered members of the same family.

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E. "General hospital" means any hospital licensed as a general hospital by the South Carolina Department of Health and Environmental Control.

F. "Gross annual income" means the total yearly income, before deductions, of the applicant and his family.

G. "Hospital bill" means the allowable payment under the Medicaid program for inpatient hospital services.

H. "Inpatient hospital services" are those items and services ordinarily furnished by a hospital for the care and treatment of in patients. Such services must be medically justified, documented by the physician's records, and comply with the requirements of the Professional Review Organization. Services covered, non-covered and restricted are defined in the MIAP Manual.

I. "Poverty guidelines" are the federal poverty income guidelines which are issued by the United States Department of Health and Human Services.

J. "State resident" means a person who is domiciled in South Carolina. A domicile once established is lost or changes only when an individual moves to a new locality with the intent to abandon his old domicile and the intent to live permanently or indefinitely in the new location. For the purposes of the MIAP, a migrant or seasonal farm worker is a resident of the State provided he has not established a domicile in another State.

K. "Third party payor" means any individual, entity, or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of the individual. It includes Medicare, insurance, employee benefit plans, Medicaid, any other State or Federal program, or other persons or agencies required by law or a court order to provide medical care for an individual.

L. "Liquid assets" are those assets which are in cash or payable in cash on demand. Liquid assets also include financial instruments convertible into cash within twenty workdays.

M. "Financially dependent" means an individual who meets the federal criteria of "dependent" for income tax purposes.

126-505. Responsibilities for Eligibility Determination.

A. The Department shall develop uniform criteria and materials for statewide use. A detailed description of the criteria, procedures, and materials which include an application form and letter of notification may be found in the MIAP Manual. Each county is responsible for determining eligibility in accordance with the policies and procedures in the MIAP Manual. If a county fails to meet this responsibility, claims for the county's residents may be suspended until it is determined that the county is fulfilling its responsibility.

B. The county government shall make arrangements for the determination of eligibility for the MIAP for its residents. The county shall notify the Department of who is designated to determine eligibility in the county. The Department shall provide a listing of each county's designee to each general hospital and to the Chief Administrative Officer and Clerk to County Council in each county. If a county intends to review claims prior to the submission of such claims for payment, the county must inform the Department of its intent to review claims.

C. General hospitals shall inform patients of the existence of the MIAP and shall refer the patient for an application if it is determined that the patient has no means to pay for hospital services. General hospitals shall submit claims to the Department. If a county has elected to review claims prior to submission to the Department, it must review the claims within fifteen (15) working days from the date the claim is provided by the hospital. If no response is received from the county within fifteen (15) working days, the hospital shall forward the claim to the Department.

126-510. Application Process.

When it is determined that an individual needs hospitalization and that he may qualify for assistance through the MIAP, the procedures stated below shall be followed.

A. For nonemergency admissions, the patient shall be referred to the designee in the county of residence for an eligibility determination. The designee shall notify the patient and the admitting hospital or physician of the outcome of the eligibility determination. Eligibility shall be determined prior to admission.

B. For emergency admissions, the hospital shall admit the patient and obtain a signed application from the applicant, his relative or other individual authorized to act on his behalf. The hospital shall collect information pertaining to the individual's eligibility. The hospital shall then forward the information to the designee in the individual's county of residence for processing. The county designee shall notify the patient and the hospital of the outcome of the eligibility determination in accordance with Section H of this subpart.

C. Eligibility shall be determined on an episodic basis. A new application is required for each period of hospitalization. Exception: If the patient is readmitted to the hospital within thirty (30) days of the date of discharge, he is not required to file another application; however, it must be determined that the patient's financial circumstances have not changed.

D. The application must be submitted by the patient or a responsible person acting on his behalf. If the applicant is not capable of submitting his own application and he has no one to act on his behalf, the hospital may submit the application.

E. A retroactive application may be filed only if an individual failed to apply at the time of hospitalization. The individual must be able to establish that he was eligible at the time of hospitalization. All retroactive applications must be filed within one (1) year after discharge from the hospital. Retroactive sponsorship by MIAP may be made only if the program had not sponsored \$15 million in unreimbursed hospital care during the year in which the hospitalization occurred. These procedures also apply if an application is made on behalf of a deceased individual.

F. The applicant shall furnish required documentation to establish eligibility. The designee shall assist the applicant in obtaining needed documentation when the applicant is incapable of obtaining such documentation.

G. Disposition of applications for assistance through the MIAP shall be made within fifteen (15) working days unless an eligibility determination for other benefits such as Medicaid must be made prior to certification for payment or unless more time is needed to obtain adequate documentation. If disposition of an application is not made within fifteen (15) working days, the reason for delay must be documented. This time frame, is separate from the fifteen (15) working days that a county is allowed for the review of hospital claims, if it elects to do so.

For applicants who are potentially eligible for Medicaid, the MIAP application cannot be approved until the applicant has applied for and been denied Medicaid benefits for a reason other than those identified in the MIAP Manual. The fifteen (15) day time frame does not apply in this situation.

H. The designee shall provide written notification to applicants and providers of the decision on MIAP applications.

I. If an applicant disagrees with the decision made on his case, he may request a reconsideration at the county level. This reconsideration request must be made within thirty (30) days of the notification of the decision. The reconsideration decision shall be made by an individual(s), other than the person who made the eligibility determination, designated by the county's chief administrative officer. If the applicant disagrees with the reconsideration decision, he may request a fair hearing from the Appeals Unit of the Department. This request must be made in writing within thirty (30) days of the reconsideration decision. The fair hearing will be conducted in accordance with the Department Appeals and Hearing Regulations, R.126-150 et seq.

SUBARTICLE 2 COVERED SERVICES

126-540. Recovery by the Medically Indigent Assistance Program.

A. The MIAP shall be reimbursed if an individual or the services delivered to that individual are later determined to be ineligible for coverage.

B. The ineligible person or the person for whom ineligible services are provided must reimburse the hospital to which the MIAP payment was made. The hospital will then reimburse the Department the amount reimbursed to the hospital by that person.

SUBARTICLE 3 PAYMENT PROCESS

126-560. The Department shall use a prospective payment system which considers diagnostic related groupings and per diem costs to reimburse hospitals for inpatient services provided to Medically Indigent beneficiaries.

A. The method for processing and payment of claims shall be an automated system totally dedicated to the MIAP and incorporated into the MIAP Manual.

B. Providers may seek a correction to the statistical calculation which establishes the maximum allowable payment rate by requesting in writing a reconsideration of such rate to:

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Bureau of Health Services, Hospital Reimbursement
South Carolina Department of Health and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

If the provider disagrees with the decision of the Department, he may appeal that decision in accordance with R.126-150 et seq.

SUBARTICLE 4 COUNTY ASSESSMENTS

126-570. Grace Period.

County Assessments shall be paid in accordance with the provisions of 44-6-146© of the 1976 Code, as amended. The grace period referred to in this section shall be ten (10) working days from the date the assessment was originally due. The assessment must be paid in full; however, assessments which are not paid within the grace period are subject to monetary penalties as defined in 44-6-146©. The penalty and/or interest payments may be waived if a county submits evidence to substantiate that:

- a county is declared a disaster area; or,
- a change adversely affects the economic condition of a county.

Counties which seek a waiver of the penalty and/or interest must submit a written request from the Chief Executive Officer of the county to:

Executive Director
South Carolina Department of Health and Human Services Post Office Box 8206
Columbia, South Carolina 29202-8206

ARTICLE 8 INTERMEDIATE SANCTIONS FOR MEDICAID CERTIFIED NURSING FACILITIES

126-800. Definitions.

A. Administrator of the State Medicaid Agency means the Executive Director of South Carolina Department of Health and Human Services.

B. Annual Standard Survey means an annual standard survey conducted on each nursing facility, without prior notice to the facility. The survey may occur as early as nine months, but shall not be later than fifteen months after the date of the nursing facility's previous standard survey. The statewide average interval between standard surveys shall not exceed twelve months.

C. Certification means the State Survey Agency's determination that a nursing facility meets the requirements for participation in the Medicaid program.

D. Credible allegation means a statement or documentation which must be submitted to the Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services (USDHHS) when a nursing facility has had serious deficiencies resulting in imminent action to terminate the provider's certification. The statement must indicate how deficiencies will be corrected and problems resolved and be realistic in terms of the possibility of correction by specified deadlines.

E. Credible Certified Notice of Correction means a certification letter from the Nursing Facility to the State Survey Agency and the Medicaid Agency, stipulating that deficiencies noted in the most recent survey and due to be corrected by the last date in an accepted credible allegation or in an accepted plan of correction, have been corrected as of the date of the certification letter. Credibility shall be validated upon the next Survey Agency revisit, and penalties shall cease or escalate from the date of the certified notice in accordance with procedures in Section 126-840. The statement, "I certify that" must precede the statement of correction.

F. Deficiency means non-compliance with requirements of participation for nursing facilities as mandated by Federal Regulations.

G. Immediately Jeopardizes the Health or Safety of Residents means that conditions exist which pose a high probability that serious harm or injury to patients could occur at any time, or already has occurred and may well occur again if patients are not protected effectively from the harm (An immediate and serious threat need not result in actual harm to the resident. The threat of probable harm is perceived as being as serious or significant).

The only acceptable corrective action is the immediate elimination of the conditions which immediately jeopardize the resident's health and safety.

H. Medicaid is the common name for Title XIX of the Social Security Act.

I. Nursing Facility means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more non-related persons over a period exceeding twenty-four hours, which is operated either in connection with a hospital or as a free standing facility for the express or implied purpose of providing nursing care for persons who are not in need of hospital care, and in which all nursing care is prescribed by or performed under the direction of persons currently licensed to practice medicine in the State of South Carolina. Nursing care consists of nursing services requiring knowledge, judgment, and skill in caring for the sick.

J. Recurring Deficiency means a deficiency, cited by the State Survey Agency during a current survey, that has the exact same tag number but a different reason from the one cited during the previous survey.

K. Repeat Deficiency means a deficiency, cited by the State Survey Agency during a current survey, that has the exact same tag number as cited for the exact same reason in a previous survey.

L. Requirements of Participation means the requirements a nursing facility must meet in order to receive payment under the state's Medicaid program.

M. Substantial Risk to Health and Safety of Residents means conditions exist which over time if not corrected, will likely result in harm or injury to patients.

N. State Medicaid Agency means Department of Health and Human Services (SCDHHS).

O. State Survey Agency means the Department of Health and Environmental Control (DHEC).

P. Tag Number means a reference number which identifies a particular Code of Federal Regulation regulatory statement.

Q. Temporary Management/Receivership means the appointment of a substitute manager or administrator, with powers, as enumerated in the statute, by the court.

126-810. Imposition of Sanctions.

The Administrator, or his designee, of the State Medicaid Agency may apply one or more of the following sanctions against a Medicaid nursing facility which has failed to correct deficiencies or make acceptable progress toward correction of deficiencies.

1. Deny payment for all individuals under the Medicaid program.
2. Deny payment for new admissions under the Medicaid program.
3. Assess and collect monetary penalties in accordance with Sections 126-830 and 126-850 of these regulations.
4. Seek court appointment of temporary management.
5. Transfer of residents.
6. Closure of a facility and transfer of residents.

126-830. Assessment of Sanctions.

The Administrator, or his designee, of the State Medicaid Agency may impose penalties in accordance with Section 126-840, Schedule of Sanctions of these regulations.

Civil monetary penalties under each class shall be assessed based on an amount per bed with the maximum monetary penalties adjusted based on the number of beds in the facility. The ceiling for maximum penalties shall be based on a facility size of 300 beds.

Repeat deficiencies, identified from a previous annual standard survey, may be assessed at double the scheduled amount.

Recurring deficiencies identified from previous annual standard survey, may be assessed monetary penalties at one and one half times the scheduled amount.

Monetary penalties levied after the first and subsequent survey revisits shall be assessed from the date indicated in the schedule of sanctions until the earlier of the next survey revisit or a credible certified notice of correction from the facility that deficiencies due to be corrected in accordance with the last date in a credible allegation or an accepted plan of correction have been corrected as of the date of the certified letter. Credibility

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shall be validated upon the Survey Agency revisit and penalties shall cease for corrected deficiencies or be escalated to the next level for uncorrected deficiencies from the date of the certified letter.

126-840. Schedule of Sanctions.

CLASS I DEFICIENCY:

A. Violation of requirements which present an indirect relationship to resident health, safety or welfare, and which does not create a substantial and/or immediate risk to health and safety.

B. Remedies/Sanctions:

1. Deny payment under the Medicaid program for any new admissions from the date of issuance of a certified notice to the facility when the facility has failed to correct deficiencies within this class within 90 days of the annual standard survey exit date.

2. Assess and collect monetary penalties up to \$500 per day retroactive to the exit date of the standard annual survey for deficiencies in this class which remain uncorrected at the time of the first survey revisit.

3. Assess and collect monetary penalties up to \$990 per day retroactive to the exit date of the first survey revisit for deficiencies in this class which remain uncorrected at the time of a second survey revisit.

4. Assess and collect monetary penalties up to \$1485 per day retroactive to the exit date of the second survey revisit for deficiencies which remain uncorrected at the time of the third survey revisit.

5. Deny payment under the Medicaid program 30 days from decertification date imposed by the State Survey Agency.

CLASS II DEFICIENCY:

A. Violation of requirements which presents a direct relationship to the health, safety or welfare, of residents but which does not create a substantial and/or immediate risk to health and safety.

B. Remedies/Sanctions:

1. Deny payment under the Medicaid program for any new admissions from the date of issuance of a certified notice to the facility when the facility has failed to correct deficiencies within this class within 90 days of the annual standard survey exit date.

2. Assess and collect monetary penalties up to \$750 per day retroactive to the exit date of the standard annual survey for deficiencies in this class which remain uncorrected at the time of the first survey revisit.

3. Assess and collect monetary penalties up to \$1500 per day retroactive to the exit date of the first survey revisit for deficiencies in this class which remain uncorrected at the time of a second survey revisit.

4. Assess and collect monetary penalties up to \$2250 per day retroactive to the exit date of the second survey revisit for deficiencies which remain uncorrected at the time of the third survey revisit.

5. Deny payment under the Medicaid program 30 days from decertification date imposed by the State Survey Agency.

CLASS III DEFICIENCY:

A. Violation of requirements which poses a substantial risk to the health and safety of residents.

B. Remedies/Sanctions:

1. Deny Payment under the Medicaid program for any new admissions from the date of issuance of a certified notice to the facility when conditions exist that pose substantial risk to the health and safety of residents or when the facility has failed to correct deficiencies within 30 days of any survey by the State Survey Agency or the Centers for Medicare and Medicaid Services, United States Department of Health and Human Services.

2. Assess and collect monetary penalties up to \$900 per day retroactive to the exit date of the standard annual survey for deficiencies in this class which remain uncorrected at the time of the first survey revisit.

3. Assess and collect monetary penalties up to \$1800 per day retroactive to the exit date of the first survey revisit for deficiencies in this class which remain uncorrected at the time of a second survey revisit.

4. Assess and collect monetary penalties up to \$2400 per day retroactive to the exit date of the second survey revisit for deficiencies which remain uncorrected at the time of the third survey revisit.

5. Seek circuit court appointment of temporary management to effect an orderly closure when facility management is judged unable or unwilling to correct the deficiencies in this class by the dates stipulated in an accepted plan of correction or in an accepted credible allegation.

6. Deny payment under the Medicaid program 30 days from decertification date imposed by the State Survey Agency.

CLASS IV DEFICIENCY:

A. Violation of requirements which immediately jeopardizes the health and safety of residents.

B. Remedies/Sanctions:

1. Deny payment under the Medicaid program for any new admissions from the date of issuance of a certified notice to the facility when conditions exist that pose immediate jeopardy to health and safety.

2. Assess and collect monetary penalties up to \$1200 per day retroactive to the exit date of the standard annual survey for deficiencies in this class which remain uncorrected at the time of the first survey revisit.

3. Assess and collect monetary penalties up to \$2250 per day retroactive to the exit date of the first survey revisit for deficiencies in this class which remain uncorrected at the time of a second survey revisit.

4. Assess and collect monetary penalties up to \$2500 per day retroactive to the exit date of the second survey revisit for deficiencies which remain uncorrected at the time of the third survey revisit.

5. Initiate emergency action in a court of competent jurisdiction to appoint a receiver to effect an orderly closure.

6. Deny payment under the Medicaid program 30 days from decertification date imposed by the State Survey Agency.

Fiscal Impact Statement:

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

Statement of Rationale:

The Agency is proposing to amend Article 4, Article 5, Article 7 and Article 8 of Chapter 126 of the South Code of Regulations to update outdated references, to more accurately reflect administration of the Agency's programs and to remove sections that are no longer administered by the Agency.

Document No. 4757

SOUTH CAROLINA HUMAN AFFAIRS COMMISSION

CHAPTER 65

Statutory Authority: 1976 Code Section 1-13-70

65-2. Complaint.

Synopsis:

Regulation 65-2 governs the requirements for the Agency's acceptance and retention of formal complaints of discrimination under the Human Affairs Law. Current language permits complainants to file in person or by mail, but does not contemplate modern transmissions, such as through facsimile or by email.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on August 25, 2017.

Instructions:

Replace Regulation 65-2 as printed below.

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Text:

65-2. Complaint.

A. Who may file.

A complaint that any person has engaged in or is engaging in an unlawful employment practice may be made by an individual claiming to be aggrieved - said individual shall be hereinafter referred to as the "complainant".

B. Complaint Form.

The complaint shall be in writing on a form provided by the Commission for this purpose. The complaint must be signed and sworn under oath or affirmation.

C. Required Contents of a Complaint. A complaint shall contain:

(1) The full name, address, and telephone number (if any) of the complainant. (Note: The person claiming to be aggrieved has the responsibility to provide the Commission with notice of any change in address and with notice of any prolonged absence from the current address and telephone number so that he/she can be located as necessary during the Commission's processing of the complaint.)

(2) The full name and address of the person against whom the complaint is made, if known (hereinafter referred to as the "respondent").

(3) A short, clear, and concise statement of the facts showing that the complainant is entitled to relief under the Act. This shall include:

(a) a clear statement of the harm alleged to be suffered by the complainant;

(b) a statement of the alleged basis of the discrimination;

(c) a statement of the complainant's knowledge, if any, concerning the respondent's reason for the alleged unlawful discrimination; and

(d) a statement of any and all other information providing the factual basis for the complaint.

(4) The date or dates when the alleged unlawful employment practice occurred, if known; if the alleged unlawful employment practice is of a continuing nature, the dates between which the alleged continuing acts occurred shall be stated, if known.

(5) If known, the approximate number of employees of the respondent employer, or the approximate number of members of the respondent labor organization, as the case may be.

(6) A statement as to any other action or proceeding, judicial or administrative, civil or criminal, instituted by the same complainant or other in his/her behalf, in any other forum based upon the same operative facts or harm as is alleged in the complaint filed with the Commission, together with a statement of the status or disposition of such other action or proceeding.

D. Time of Filing.

(1) A complaint alleging an unlawful employment practice must be filed with the Commission within one hundred eighty (180) calendar days after the alleged unlawful practice occurs, unless the practice is of a continuing nature. If the alleged practice is of a continuing nature, the date of the occurrence of said practice shall be deemed to be any date after commencement of the practice up to and including the date on which the practice shall have ceased, or the date on which the complaint is filed if the unlawful practice is continuing at the time the charge is filed.

(2) The timeliness of a complaint shall be determined for purposes of satisfying the filing requirements by the date on which the complaint is received by the Commission. All charges shall be dated and time stamped upon receipt by the Commission.

E. Place of Filing.

A complaint shall be filed with the Commission at its office at 1026 Sumter Street, Suite 101, Columbia, South Carolina 29201, or by mail at Post Office Box 4490, Columbia, South Carolina 29240.

F. Manner of Filing.

The complaint may be made in person to any member of the Commission's staff, submitted by electronic or other means as approved by the agency, or mailed to the Commission's office in Columbia, South Carolina. A complaint may also be filed in the above manner at any other Commission office subsequently established for the filing of complaints by the Commission at any other location in the State.

G. Service of the Complaint.

Within ten (10) days after the filing of a complaint in the Commission's office, the Commission shall serve the respondent with a copy of the complaint by mail or in person.

H. Amendment of Complaint.

(1) A complaint may be amended by the complainant to cure technical defects, including failure to verify the complaint, or to clarify allegations made therein. A complaint shall not be amended to include additional unlawful employment practices unless such additional unlawful employment practices are clearly related to the allegations contained in the original complaint. Any additional unlawful employment practices which are not clearly related to the allegations contained in the original complaint may, if timely, be made in a separate complaint.

(2) Amendments will relate back to the date the complaint was first received. If a complaint is amended, a copy of the amended complaint shall be served within ten (10) days of Commission receipt thereof on the respondent.

(3) A complaint may only be amended while the complaint is active, and a complaint may not be amended by a complainant after a letter of determination, final order, conciliation or dismissal of a complaint has been made by the Commission.

I. Withdrawal of Complaint.

A complaint or any part thereof may be withdrawn at any time upon Commission receipt of a written request of the complainant or his/her legal representative stating that the complainant requests that the complaint be withdrawn. Such withdrawal shall be without prejudice to the rights of the complainant; provided however, that should the complainant refile the complaint at a later time, timeliness shall be established on the basis of the latter filing. The respondent shall be notified within ten (10) days of the withdrawal of the complaint.

J. Dismissal of Complaint.

(1) Where a complaint, on its face, or as amended, fails to state a claim under the Act, the Commission shall dismiss the complaint.

(2) A complaint shall also be dismissed:

(a) When the complaint, and every portion thereof, is not timely filed.

(b) When the complaint does not contain required contents pursuant to Section 65-2C of these Regulations.

(c) In the event that the complainant fails to provide information necessary for the proper filing or processing of a complaint, fails or refuses to appear or to be available for scheduled interviews or conferences with Commission investigators, or otherwise refuses to cooperate with the Commission to the extent that the Commission is unable to resolve the complaint, and after due written notice, the complainant has had no less than fifteen (15) but no more than thirty (30) days in which to respond.

(d) When the complainant cannot be located the Commission shall dismiss the complaint, provided that reasonable efforts have been made to locate the complainant, and the complainant has not responded within thirty (30) days to a written notice sent by the Commission to the complainant's last known address.

(3) Where the Commission determines after investigation that there is not reasonable cause to believe that the Act has been violated, the Commission shall dismiss the complaint.

(4) In the event that a respondent has made a settlement offer, in writing and specific in its terms, the Commission shall dismiss the complaint if the complainant refuses to accept the offer; provided however, that the offer would afford full relief for the harm alleged by the person claiming to be aggrieved, and that the person claiming to be aggrieved fails to accept such an offer within thirty (30) days after actual notice of the said offer.

(5) Any complaint which has been brought as a court action alleging essentially the same facts and seeking relief for the same complainant shall be promptly dismissed.

(6) Any dismissal; pursuant to (a) through (d) above, shall constitute a final action by the Commission within the meaning of Section 706(c) of Title VII of the Civil Rights Act of 1964, as amended.

Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-2.

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Statement of Rationale:

Regulation 65-2, Complaint, should be changed to allow for complaint filing via email or facsimile. The proposed amendments will parallel the requirements of the Agency's federal counterpart, the Equal Employment Opportunity Commission, thereby making the respective practices of the two entities substantially similar, which is required by the *Worksharing Agreement* between the Agency and the Equal Employment Opportunity Commission.

Document No. 4758
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-3. Investigation and Production of Evidence.

Synopsis:

Regulation 65-3 governs procedures for Agency investigations based on complaints of unlawful conduct under the Human Affairs Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on August 25, 2017.

Instructions:

Replace Regulation 65-3 as printed below.

Text:

65-3. Investigation and Production of Evidence.

A. Investigation.

(1) Investigator. The investigation of complaint shall be conducted by one or more investigators from the Commission's staff who shall be appointed by the Commissioner. If more than one investigator is appointed, one of the investigators shall be designated the "investigator in charge" and shall direct the investigation.

(2) Duties of the Investigator. Investigators shall do those things necessary and proper to thoroughly investigate a complaint, but shall limit their investigations to their proper scope as described in Subsection 65-3A(5) herein. Investigators assigned to investigate complaints filed pursuant to Section 1-13-90(c) of the Act (State agencies or departments and their local subdivisions) shall upon completion of their investigations submit to the supervisory commission member a statement of the facts disclosed by their investigations and recommend to the supervisory commission member that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. In complaints arising under Section 1-13-90(d) of the Act (employers, employment agencies or labor organizations, including municipalities, counties, special purpose districts, school districts and local governments), investigators shall upon completion of their investigation submit to the Commissioner a statement of the facts disclosed by the investigation and recommend either that the complaint be dismissed or that the Commission endeavor to formally conciliate the matter.

(3) Supervisory Commission Members. If the complaint under investigation is brought pursuant to Section 1-13-90(c) of the Act, the Chairman of the Commission, or upon the request of the Chairman, the Commissioner shall designate a member of the Commission to supervise the processing of the complaint who shall be known as the supervisory commission member. The supervisory commission member shall review the results of the investigation conducted by the investigator and review the investigator's recommendations for dismissal or other action.

(4) Commencement of the Investigation. The investigation shall commence immediately upon service by the Commission of a copy of the complaint or notice of complaint upon the respondent.

(5) Scope of Investigation. Insofar as practicable, the investigation shall be limited to a determination of the facts relating to the unlawful employment practice or practices under investigation or in question before the commission.

(6) Conduct of the Investigation.

(a) The investigator shall make a prompt and complete investigation of the allegations in the complaint which meet the standards of R. 65-2.

(b) As part of each investigation the investigator:

(i) Will accept as evidence any statement of position and/or evidence concerning the allegations of the complaint which the complainant or respondent wishes to voluntarily submit.

(ii) Shall require the complainant or respondent to provide any evidence, including statements and documents which are relevant to the complaint, as well as, any information which is necessary to establish actual damages or to establish the date on which the alleged damages occurred.

(c) The investigator may require the complainant to provide a detailed statement which includes, but is not limited to:

(i) a statement of each specific harm that the complainant has allegedly suffered, and the date on which each alleged harm occurred;

(ii) for each alleged harm, a statement specifying the act, policy or practice of the respondent which is alleged to be unlawful; and

(iii) for each act, policy or practice alleged to have harmed the complainant a statement of the facts which lead the complainant to believe that the act, policy or practice is unlawfully discriminatory.

(d) During the investigation of a complaint, the investigator may conduct a fact-finding conference with the parties. The purpose of the conference shall be to clearly define the issues to determine which elements of the matter under investigation are undisputed, to resolve those issues that can be resolved and to determine whether there is any likelihood for a negotiated no-fault settlement of the complaint as described in Section 65-5A. Discussions during a fact-finding conference are confidential. Any conciliation efforts during the conference are also confidential and are considered conciliation attempts within the meaning of the Act.

B. Production of Evidence.

(1) Investigator's Formal Request for Information. An investigator may, at any reasonable time after service of complaint, formally request access to or production of records and documents in the possession of any person being investigated which are relevant to the complaint for purposes of inspection and copying. The investigator shall make the formal request for documents in writing by certified mail, transmitted to the person being investigated. The written demand shall notify the person that the investigator may apply to the Commission for a subpoena if access to or production of the documents and records is not permitted within thirty (30) days from the receipt of the investigator's written demand.

(2) Investigator's Application for Subpoena Duces Tecum. If any person fails to comply with an investigator's formal demand for information within thirty (30) days after receipt of the written demand, the investigator may apply to the Commission for a subpoena duces tecum by presenting to the Commission the investigator's written demand and the response of the person to whom the demand was made denying access to the information requested or, if no response was made, the investigator's affidavit that no response was received from the party to whom the demand for information was sent.

(3) Issuance of Subpoena Duces Tecum. To effectuate the purpose of the Act, upon a showing by an investigator that a person has not complied with a written demand for information relevant to the complaint which was transmitted to the person by certified mail, the Chairman of the Commission and the Commissioner shall acting jointly have the authority to sign and issue a subpoena requiring:

(a) the production of evidence including but not limited to books, papers, records, correspondence or documents in the possession or under the control of the person subpoenaed;

(b) access to evidence for purposes of examination and the right to copy; and

(c) under Section 1-13-90(c) of the Act, attendance at hearings or at prehearing depositions.

(4) Form and Content of Subpoenas.

(a) A subpoena issued by the Commission shall:

(i) state the name and address of its issuer;

(ii) briefly and clearly state the cause of issuance;

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- (iii) identify the person to whom and the place, date and time at which the subpoena is returnable;
- (iv) identify the person or evidence subpoenaed with reasonable clarity, specificity and particularity to readily enable the person receiving the subpoena to identify the named person or evidence;
- (v) state the date and time access is requested if a subpoena duces tecum is issued.

(b) A subpoena shall only be returnable to a duly authorized investigator of the Commission of the Commissioner.

(c) Neither the complainant nor the respondent shall have the right to demand that an investigative subpoena be issued.

(5) **Petitions to Revoke Subpoena.** Within fourteen (14) days after a subpoena is issued, the person served with the subpoena may petition the Commission by mail to revoke or modify the subpoena and shall serve a copy of the petition upon the investigator who originally demanded the information. The petition shall separately identify the portion of the subpoena with which the petitioner does not intend to comply and shall state with respect to each portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A". Within ten (10) days after receipt of the petition or as soon thereafter as practicable, the Commission shall review the petition and make a written determination upon the petition stating in detail the reasons for the Commission's determination and shall serve a copy of the determination upon the petitioner and the investigator demanding the information. When a petition to revoke a subpoena is served upon the Commission, no enforcement of a subpoena shall be sought until the Commissioner has made a determination on the petition and served the petitioner with the determination.

(6) **Applications For Enforcement.**

(a) **Failure to Comply and Enforcement.** A person who receives a subpoena may refuse to comply by failing to respond to the subpoena or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke the subpoena. If a person fails to comply with a subpoena, the Commission may, after fourteen (14) days, apply to any state court of competent jurisdiction for an order requiring the person to comply with the subpoena as provided by the Act.

(b) **Notice of Hearing.** Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays, and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

(7) **Interrogatories and Depositions.**

(a) A party or witness may be required to answer written interrogatories relevant to a complaint under investigation under Section 1-13-90(c) and (d) of the Act at any time after such complaint is served.

(b) At least ten (10) days written notice (excluding Saturdays, Sundays and state holidays) shall be furnished to any party or witness sought to be deposed.

(c) The scope of discovery shall be governed by the relevance to the content of the complaint under investigation as described in Subsection 65-3A(5) of these Regulations.

(8) **Petitions to Revoke Interrogatories and Depositions.** If a person refuses to have his/her deposition taken or refuses to answer interrogatories, the person may petition to revoke the notice to take deposition or revoke the interrogatories within five (5) days after receipt of the notice to take deposition or within thirty (30) days after receipt of interrogatories. The petition shall be mailed to the Commission and shall be served upon the investigator who originally demanded the information. The petition shall separately identify each portion of the interrogatories with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the notice to take deposition or the interrogatories, as the case may be, shall be attached to the petition and designated as "Attachment A". Within five (5) days after receipt of the petition or as soon thereafter as practicable, the Commission shall make a determination upon the petition stating in detail the reasons for its determination and shall serve a copy of its determination upon the petitioner. When a petition to revoke is served upon the Commission, no enforcement of a notice to take deposition or interrogatories shall be sought until the Commission has made its determination on the petition and served the petitioner.

(9) **Applications for Enforcement.**

(a) **Failure to Comply and Enforcement.** A person who receives interrogatories or a notice to take deposition may refuse to comply by failing to respond or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke. If a person fails to comply with the notice to take deposition, the Commission may after ten (10) days apply to any state court of competent jurisdiction for an

order requiring the person to comply as required by the Act. If a person fails to answer interrogatories the Commission may apply to any state court of competent jurisdiction for an order requiring the person to answer the interrogatories as provided by the Act.

(b) Notice of Hearing. Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

(10) Confidentiality.

(a) Public Access to Commission Files or Information Gathered During an Investigation. As provided in Sections 1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered during an investigation conducted under Section 1-13-90 of the Act, shall not be made public by the Commission, its officers or employees, unless and until that information is offered or received into evidence at a Commission hearing or court proceeding brought in accordance with the Act. In view of the prohibitions against making information public contained in Sections 1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered by the Commission during investigations and internal memoranda assessing evidence, discussing complaints or recommending action on complaints shall not be deemed "public records" within the meaning of the Code of Laws of South Carolina Section 30-40-20. The provisions of this Subsection apply whether the Commission's investigative file is open for an ongoing investigation or closed after a matter is completely concluded.

(b) Public Access to Final Opinions and Orders and Determinations. The public shall have access to the Commission's final opinion and order concerning a complaint under Section 1-13-90(c) of the Act or the Commission's determination on whether to dismiss a complaint or sue in the state circuit court under Section 1-13-90(d) of the Act.

(c) Commission Requests for Information from Investigators. If the Commission requires reports on investigations or on the progress of investigations, the investigator's report shall be given to the Commission while the Commission sits in executive session with member of the public excluded.

(d) Access to Information by Complainant and Respondent.

(i) Information Provided by the Parties Themselves. The complainant may at all times have access to any information which the complainant has furnished the Commission. The respondent may at all times have access to any information which the respondent has furnished the Commission. During the investigation of the charge of discrimination, both parties may have access to the charge filed by the complainant, and the Respondent's initial response to the charge, or position statement, and non-confidential attachments. Confidential attachments should be labeled by the Respondent prior to being sent to the Commission. Neither the complainant nor the respondent shall have other information furnished by the other party, except that this Subsection does not apply to disclosure to the parties or their attorneys where the disclosure is limited to matters necessary for determining appropriate relief and/or negotiating settlements or making conciliation offers and except that this Subsection does not apply to the complainant's or respondent's access to Commission files after a complaint against the respondent has been served as provided in subitem (ii), following.

(ii) Information Available to the Parties in a Proceeding. If an action is brought against a respondent in accordance with the Act, either before the Commission pursuant to Section 1-13-90(c) of the Act or in a court of competent jurisdiction pursuant to Sections 1-13-90(c) and (d) of the Act, the respondent shall from the time the complaint is served be granted access to the investigative file of the Commission which shall include access to statements, affidavits or depositions of the complainant and witnesses, whether or not the complainant and the witnesses are employees of the respondent at the time the request for access is made. The complainant and respondent shall also have access to all other facts and data gathered by the Commission during its investigation, provided however that neither shall have access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint and further provided that deletions may be made where necessary to protect the personal privacy of an affiant or an individual named in a document to insure the anonymity of confidential sources or information, and to protect the confidentiality of trade secrets, confidential financial information and the like.

(iii) Copy of the Complaint. A copy of the complaint will be served in all cases upon the respondent unless a complaint received pursuant to a federal contract expressly requires that the original complaint not be served. In the event that a copy of the complaint is not provided, the respondent shall be served with a notice of the complaint within ten (10) days of receipt. The notice of complaint shall include the place, circumstances and

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identity of the person filing the complaint, a description of the violations of the Act alleged to have been committed by the respondent and the date of the alleged violation.

(e) Reports and Compilations. The Commission may publish abstracts of data derived from its closed investigative files in a form which does not reveal the identity of the parties, trade secrets, financial information or competitive commercial information or processes.

(f) Sharing Information Between Agencies. The Commission shall not provide information to any state or federal agency which does not have written regulations providing essentially the same protection against unauthorized disclosure as provided in these regulations.

Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-3.

Statement of Rationale:

The Respondent's 'position statement' should be made available to the charging party so that the charging party can rebut the Respondent's defenses. Certain confidential information, if properly limited and designated as by the Respondent as confidential, may be precluded from disclosure to the charging party. The Agency's federal counterpart, the Equal Employment Opportunity Commission, made this practiced uniform nationwide in 2016.

Document No. 4759
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-223. Investigation Procedures.

Synopsis:

Regulation 65-223 governs the procedures for administrative hearings before a panel of commissioners following a reasonable cause determination under the Fair Housing Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on August 25, 2017.

Instructions:

Replace Regulation 65-223 as printed below.

Text:

65-223. Investigation Procedures.

A. Investigations.

(1) Upon the filing of a complaint under 65-220, the Commission will initiate an investigation.

(2) The purposes of an investigation are:

(a) To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.

(b) To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.

(c) To develop factual data necessary for the Commission to make a determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided by the Fair Housing Law.

B. Conduct of Investigation.

(1) In conducting investigations under this Rule, the Commission will seek the voluntary cooperation of all persons to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine, record, and copy necessary materials; and to take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation.

(2) The Commission and the respondent may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in an administrative proceeding except that the Commission shall have the power to issue subpoenas in support of the investigation or at the request of the respondent. Subpoenas must be approved by the Legal Counsel as to their legality before issuance.

C. Cooperation of Federal, State or local agencies.

The Commission, in processing Fair Housing Law complaints, may seek the cooperation and utilize the services of Federal, State or local agencies, including any agency having regulatory or supervisory authority over financial institutions.

D. Completion of investigation.

(1) At any time, the aggrieved person may seek to withdraw the complaint from the agency. The request must be in writing from the aggrieved party, or aggrieved party's representative, stating the reasons for withdrawal. The request is subject to approval by the Commission. Such withdrawal shall be without prejudice to the rights of the aggrieved party. A withdrawn complaint may be re-filed, provided such filing occurs within one hundred eighty (180) days of the discriminatory act originally alleged.

(2) If the aggrieved party fails to provide information necessary for the filing or processing of a complaint, fails or refuses to appear or to be available for scheduled interviews or conferences with Commission investigators, or otherwise refuses to cooperate with the Commission to the extent that the Commission is unable to resolve the complaint, then the Commission, after due written notice to the aggrieved party and fifteen (15) days in which to respond, may dismiss the complaint.

(3) All other investigations will remain open until the reasonable cause determination is made or a conciliation agreement is executed and approved. Unless it is impracticable to do so, the Commission will complete the investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint (or where the Commission reactivates the complaint, within 100 days after service of the notice of reactivation). If the Commission is unable to complete the investigation within the 100 day period, the Commission will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

E. Final investigative report.

(1) At the end of each investigation under this Rule, the Commission will prepare a final investigative report. The investigative report will contain:

(a) The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses who request anonymity. The Commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing or a civil action under the Fair Housing Law.

(b) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(c) A summary description of other pertinent records.

(d) A summary of witness statements; and

(e) Answers to interrogatories.

(2) A final investigative report may be amended at any time, if additional evidence is discovered.

(3) Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in 65-225.F., the Commission will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following the completion of investigation, the Commission shall notify the aggrieved person and the respondent that the final investigation report is completed and will be provided upon request.

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Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-223.

Statement of Rationale:

The regulation should include provisions that allow for closure of an investigation when an aggrieved party wants to withdraw the matter, or when aggrieved party is offered full relief under the law and fails to accept it.

Document No. 4803
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-49-20 et seq.

69-1. Adjustment of Claims Under Unusual Circumstances.

Synopsis:

The Department is proposing to make changes to Regulation 69-1 to add the temporary licensure of motor vehicle physical damage appraisers in the event of a catastrophe where there are insufficient motor vehicle physical damage appraisers. In its current form, the regulation is limited to the temporary licensure of non-resident adjusters in the event of a catastrophe.

Notice of Drafting was published in the *State Register* on October 27, 2017.

Instructions:

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

Text:

69-1. Adjustment of Claims Under Unusual Circumstances.

(Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-49-20 et seq.)

1. Licensed Adjusters or motor vehicle physical damage appraisers in South Carolina are authorized to adjust claims or appraise automobiles under the physical damage insurance coverage for unlicensed companies under the following circumstances:

(a) Where the insured has an accident in South Carolina but is not a resident, being in a status of a transient.

(b) Where the insured is a new resident in the State and has an unexpired policy of an unlicensed company purchased before he moved into the State.

2. The law provides the conditions under which a Non-Resident Adjuster or motor vehicle physical damage appraiser may be licensed. In the event of a catastrophe where there are insufficient Licensed Adjusters or motor vehicle physical damage appraisers in South Carolina to handle claims expeditiously, Non-Resident Adjusters or motor vehicle physical damage appraisers will be permitted to enter the State to handle the adjustments arising out of the catastrophe without being required to be licensed in South Carolina, provided that the Adjuster or motor vehicle physical damage appraiser exhibits evidence of an Adjuster's or motor vehicle physical damage

appraiser's License in his home state and remains in the State only for the period that is necessary to assist in the adjustments or appraisals.

3. An unusual circumstance or catastrophe exists when, due to a specific, infrequent, and sudden natural or manmade disaster or phenomenon, there have arisen losses to property in South Carolina that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the authorization of emergency adjusters or motor vehicle physical damage appraisers by the Department due to the magnitude of the catastrophic damage.

4. The Department will determine and announce when an emergency or catastrophe exists and also will determine and announce the expiration of the period of emergency or catastrophe.

Fiscal Impact Statement:

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 69-1.

Statement of Rationale:

The Department is proposing to make changes to Regulation 69-1 to add the temporary licensure of motor vehicle physical damage appraisers in the event of a catastrophe where there are insufficient motor vehicle physical damage appraisers. In its current form, the regulation is limited to the temporary licensure of non-resident adjusters in the event of a catastrophe.

Document No. 4792
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110, and 38-9-200 et seq.

69-53. Credit for Reinsurance.

Synopsis:

The South Carolina Department of Insurance proposes amendments based upon a recently approved NAIC model law and regulation. The amendments are part of a larger effort to modernize reinsurance regulation in the United States. The reinsurance framework is based on federal legislation. The proposed changes would allow the director or his designee to adopt additional requirements relating to 1) the valuation of assets or reserve credits; 2) the amount and forms of security supporting reinsurance arrangements; and 3) the circumstances under which reinsurance credit can be reduced or eliminated. Conforming to the NAIC's credit for reinsurance models is necessary for a state to maintain NAIC accreditation.

Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

69-53. Credit for Reinsurance.

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(Statutory Authority: S.C. Code Sections 38-3-110; 38-9-200; 1-23-10 et seq.)

Section I. Purpose.

The purpose of this regulation is to set forth rules and procedural requirements which the director or his designee deems necessary to carry out the provisions of Sections 38-9-190 through 38-9-220. The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this State.

Section II. Severability.

If any provisions of this regulation, or the application of the provision to any person or circumstance, is held invalid, the remainder of the regulation, and the application of the provisions to persons or circumstances other than those to which it is held invalid, shall not be affected.

Section III. Reinsurer licensed in this state.

Pursuant to Section 38-9-200(B), the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which was licensed in this State as of any date on which statutory financial statement credit for reinsurance is claimed.

Section IV. Accredited reinsurers.

A. Pursuant to Section 38-9-200(C), the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this State as of any date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer:

1. Files a properly executed Form AR-1 (attached as an exhibit to this regulation) as evidence of its submission to this State's jurisdiction and to this State's authority to examine its books and records;

2. Files with the director or his designee a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

3. Files annually with the director or his designee a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement: and

4.a. Maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and whose accreditation has not been denied by the director or his designee within ninety (90) days of its submission; or

b. Maintains a surplus as regards policyholders of less than \$20,000,000, and whose accreditation has been approved by the director or his designee.

B. If the director or his designee determines that the assuming insurer has failed to meet or maintain any of these qualifications, the director or his designee may upon written notice and hearing revoke the accreditation. Credit shall not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the director or his designee or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the director or his designee.

Section V. Reinsurer domiciled and licensed in another state.

A. Pursuant to Section 38-9-200(D), the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which as of any date on which statutory financial statement credit for reinsurance is claimed:

1. Is domiciled (or, in the case of a United States branch of an alien assuming insurer, is entered through) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under the Code and this regulation;

2. Maintains a surplus as regards policyholders in an amount not less than \$20,000,000: and

3. Files a properly executed Form AR-1 with the director or his designee as evidence of its submission to this State's authority to examine its books and records.

B. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, “substantially similar” standards means credit for reinsurance standards which the director or his designee determines equal or exceed the standards of the Code and this regulation.

Section VI. Reinsurers maintaining trust funds.

A. Pursuant to Section 38-9-200(E), the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified United States financial institution as defined in Section 38-9-220, for the payment of the valid claims of its United States domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director or his designee substantially the same information as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers, to enable the director or his designee to determine the sufficiency of the trust fund.

B. The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer’s liabilities attributable reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000, except as provided in Paragraph 2 of this subsection.

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by trust for at least 3 full years, the director or his designee with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve actuarial review, including an independent analysis of reserves, and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer’s liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

3.a. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(1) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the group’s several liabilities attributable to business ceded by U. S. domiciled ceding insurers to any member of the group;

(2) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the group’s several insurance and reinsurance liabilities attributable to business written in the United States: and

(3) In addition to these trusts, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the U. S. domiciled ceding insurers of any member of the group for all the years of account.

b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group’s domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group’s domiciliary regulator, provide to the director or his designee:

(1) An annual certification by the group’s domiciliary regulator of the solvency of each underwriter member of the group: or

(2) If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

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4.a. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall:

(1) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U. S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and;

(2) Maintain a joint trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group: and

(3) File a properly executed Form AR-1 as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

b. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the director or his designee an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C.1. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;

b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns and successors in interest;

c. The trust shall be subject to examination as determined by the director or his designee;

d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust;

e. No later than February 28 of each year the trustees of the trust shall report to the director or his designee in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

2.a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U. S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

D. For purposes of this regulation, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U. S. domiciled insurers that are not otherwise secured by acceptable means, and, shall include:

1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:
 - a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
 - b. Reserves for losses reported and outstanding;
 - c. Reserves for losses incurred but not reported;
 - d. Reserves for allocated loss expenses: and
 - e. Unearned premiums.
2. For business ceded by domestic insurers authorized to write life, health and annuity insurance:
 - a. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;
 - b. Aggregate reserves for accident and health policies;
 - c. Deposit funds and other liabilities without life or disability contingencies: and
 - d. Liabilities for policy and contract claims.

E. Assets deposited in trusts established pursuant to Section 38-9-200 and this section shall be valued according to their fair market value and shall consist only of cash in U. S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 38-9-220, clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 38-9-220, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs 1.e., 3, 6.b. or 7 of this subsection, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U. S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 38-9-200 shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by:
 - a. The United States or by any agency or instrumentality of the United States;
 - b. A state of the United States;
 - c. A territory, possession or other governmental unit of the United States;
 - d. An agency or instrumentality of a governmental unit referred to in Subparagraphs (b) and (c) of this paragraph if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements: or
 - e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U. S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U. S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:
 - a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
 - b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC: or
 - c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

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3. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of Paragraph 1, 2 or 3 of this subsection shall be subject to the following additional limitations:

a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;

b. An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust;

c. The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust: and

d. Preferred or guaranteed shares issued or guaranteed by a solvent U. S. institution are permissible investments if all of the institution's obligations are eligible as investments under Paragraphs (2)(a) and (2)(c) of this subsection, but shall not exceed two percent (2%) of the assets of the trust.

5. As used in this regulation:

a. "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

(i) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located: and

(ii) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703: or

(2) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Items (1)(i) and (1)(ii) of this subsection;

b. "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

6. Equity interests

a. Investments in common shares or partnership interests of a solvent U. S. institution are permissible if:

(1) Its obligations and preferred shares, if any, are eligible as investments under this subsection: and

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. Section Section 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC: and

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust;

7. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

8. Investment companies

a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. Section 80a are permissible investments if the investment company:

(1) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph 1, 2 or 3 of this subsection or invests in securities that are determined by the director or his designee to be substantively similar to the types of securities set forth in Paragraph 1, 2 or 3 of this subsection: or

(2) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Paragraph 6.a. of this subsection;

b. Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

(1) An investment in an investment company qualifying under Subparagraph a.(1) of this paragraph shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust: and

(2) Investments in an investment company qualifying under Subparagraph a.(2) of this paragraph shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to Paragraph 6.a. of this subsection.

9. Letters of Credit

a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director or his designee), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section IX of this regulation shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

Section VII. Credit for reinsurance required by law.

Pursuant to Section 38-9-200(F), the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Sections 38-9-200(B), (C), (D) or (E), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means state, district or territory of the United States and any lawful national government.

Section VIII. Credit for Reinsurance – Certified Reinsurers

A. Pursuant to South Carolina Code Section 38-9-200 the director or his designee shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating

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assigned to the certified reinsurer by the director. The security shall be in a form consistent with the provisions of South Carolina Code Section 38-9-200 and X, XI, or XII of this Regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

1. Ratings	Security Required
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

3. The director or his designee shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the director or his designee. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- Line 1: Fire
- Line 2: Allied Lines
- Line 3: Farmowners multiple peril
- Line 4: Homeowners multiple peril
- Line 5: Commercial multiple peril
- Line 9: Inland Marine
- Line 12: Earthquake
- Line 21: Auto physical damage

5. Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

B. Certification Procedure.

1. The director or his designee shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The director or his designee may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

2. The director or his designee shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection A of this section. The director or his designee shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:
- a. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the director or his designee pursuant to Subsection C of this section.
 - b. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with Subparagraph (4)(h) of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a control fund containing a balance of at least \$250,000,000.
 - c. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the director or his designee. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:
 - (i) Standard & Poor's;
 - (ii) Moody's Investors service;
 - (iii) Fitch Ratings;
 - (iv) A.M. Best Company; or
 - (v) Any other Nationally Recognized Statistical Rating Organization.
 - d. The certified reinsurer must comply with any other requirements reasonably imposed by the director or his designee.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The director or his designee shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

- b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;
- c. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC annual statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurer);
- d. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers)(attached as exhibits to this regulation);
- e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including

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the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

f. Regulatory actions against the certified reinsurer;

g. The report of the independent auditor on the financial statement of the insurance enterprise, on the basis described in paragraph (h) below;

h. For certified reinsurers not domiciled in the U.S. audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the director or his designee will consider audited financial statements for the last three (3) years filed with its non-U.S. jurisdiction supervisor;

i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

k. Any other information deemed relevant by the director or his designee.

5. Based on the analysis conducted under Subparagraph (4)(e) of a certified reinsurer's reputation for prompt payment of claims, the director or his designee may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the director or his designee shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (4)(a) if the director or his designee finds that:

a. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed \$100,000 for each cedent; or

b. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds \$50,000,000.

6. The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the director or his designee as an agent for the service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The director or his designee shall not certify any assuming insurer that is domiciled in a jurisdiction that the director or his designee has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

7. The certified reinsurer must agree to meet applicable information filing requirements as determined by the director or his designee, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under S.C. Code of Laws Section 30-4-10 *et. seq.* and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

a. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

b. Annually, Form CR-F or CR-S, as applicable;

c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (d) below;

d. Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

g. Any other information that the director or his designee may reasonably require.

8. Change in Rating or Revocation of Certification

a. In the case of a down grade by a rating agency or other disqualifying circumstances, the director or his designee shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph (4)(a).

b. The director or his designee shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director or his designee to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the director or his designee, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director or his designee shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director or his designee, the director or his designee shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the director or his designee, the assuming insurer shall be required to post security in accordance with Section IX in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 7, the director or his designee may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the chance of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director or his designee to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

1. If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the director or his designee determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director or his designee shall publish notice and evidence of such recognition in an appropriate manner. The director or his designee may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the director or his designee shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The director or his designee shall determine the appropriate approach for evaluating the qualifications of such jurisdiction, and create and publish a list of jurisdictions whose reinsurers may be approved by the director or his designee as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director or his designee with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director or his designee, include but are not limited to the following:

a. The framework under which the assuming insurer is regulated.

b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction

d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

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e. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the director in particular.

f. The history of performance by assuming insurers in the domiciliary jurisdiction.

g. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

i. Any other matters deemed relevant by the director or his designee.

3. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The director or his designee shall consider this list in determining qualified jurisdiction. If the director or his designee approves a jurisdiction as qualified that does not appear on the list of qualified jurisdiction, the director or his designee shall provide thoroughly documented justification with respect to the criteria provided under Subsections 8.C(s)(a) to (i).

4. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the director requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within 10 days after receiving notice of the change.

3. The director or his designee may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Subsection B(8) of this section.

4. The director or his designee may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the director or his designee suspends or revokes the certified reinsurer's certification in accordance with Subsection B(8) of this section, the certified reinsurer's certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

E. Mandatory Funding clause. In addition to the clauses required under Section 14 reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section IX. Asset or Reduction from liability for reinsurance ceded to an unauthorized assuming insurer not meeting the requirements of Sections III through VIII.

A. Pursuant to Section 38-9-210, the director or his designee shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 38-9-200 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 38-9-220. This security may be in the form of any of the following:

1. Cash;

2. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

3. Clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in Section 38-9-220, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs: or

4. Any other form of security acceptable to the director his designee.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this Section shall be allowed only when the requirements of Sections XII and the applicable portions of Sections X, XI or XII of this regulation have been satisfied.

Section X. Trust agreements qualified under Section IX.

A. As used in this section:

1. “Beneficiary” means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

2. “Grantor” means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

3. “Obligations,” as used in Subsection B.11. of this section, means:

- a. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
- b. Reserves for reinsured losses reported and outstanding;
- c. Reserves for reinsured losses incurred but not reported: and
- d. Reserves for allocated reinsured loss expenses and unearned premiums.

B. Required Conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Section 38-9-220.

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee’s office in the United States.

4. The trust agreement shall provide that:

- a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
- b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
- c. It is not subject to any conditions or qualifications outside of the trust agreement: and
- d. It shall not contain references to any other agreements or documents except as provided for under Paragraph 11 and 12 of this subsection.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

- a. Receive assets and hold all assets in a safe place;
- b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
- c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
- d. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account;

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e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary: and

f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director or his designee), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement: or

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 38-9-220 apart from its general assets, in trust for such uses and purposes specified in Subparagraphs a. and b. above as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of Section IX in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. To pay or reimburse the ceding insurer for:

(1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies: and

(2) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer: or

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U. S. financial institution apart from its general assets, in trust for the uses and purposes specified in Subparagraphs a and b of this paragraph as may remain executory after withdrawal and for any period after the termination date.

13. The reinsurance agreement may, but need not, contain the provisions required by Subsection D.1.b. of this section, so long as these required conditions are included in the trust agreement. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of the total to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

14. Notwithstanding any other provisions in the trust instrument, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight or other designated receiver all of the assets of the trust fund. The assets shall be applied in accordance with the priority statutes and laws of the state in which the trust is domiciled applicable to the assets of insurance companies in liquidation. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy claims of the U. S. beneficiaries of the trust, the assets or any part of them shall be returned to the trustee for distribution in accordance with the trust agreement.

C. Permitted Conditions.

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in Subsection D.1.b. of this section.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional Conditions Applicable To Reinsurance Agreements.

1. A reinsurance agreement may contain provisions that:

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

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b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent: and

d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(1) To pay or reimburse the ceding insurer for:

(i) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(ii) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement: and

(iii) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(2) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement may also contain provisions that:

a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(1) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the current fair market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or

(2) After withdrawal and transfer, the current fair market value of the trust account is no less than one hundred two percent (102%) of the required amount.

b. Provide for the return of any amount withdrawn in excess of the actual amounts required for Subsections D.1.e of this section, and for interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection D.1.e.

c. Permit the award by any arbitration panel or court of competent jurisdiction of:

(1) Interest at a rate different from that provided in Subparagraph b,

(2) Court of arbitration costs,

(3) Attorney's fees, and

(4) Any other reasonable expenses.

3. Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this Department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

4. Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to December 31, 1992, will continue to be acceptable until

December 31, 1993, at which time the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

5. The failure of any trust agreement to specifically identify the beneficiary as defined in Subsection A of this section shall not be construed to affect any actions or rights which the director or his designee may take or possess pursuant to the provisions of the laws of this State.

Section XI. Letters of credit qualified under Section IX.

A. The letter of credit must be clean, irrevocable unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 38-9-220. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in Subsection H.1 below. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

B. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

C. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

D. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days' notice prior to expiration date or nonrenewal.

E. The letter of credit shall state whether it is subject to and governed by the laws of this State or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

F. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600(UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of Publication 600 or any other successor publication, occur.

G. If the letter of credit is issued by a qualified United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in Subsection A. of this section, then the following additional requirements shall be met:

1. The issuing qualified United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and

2. The "evergreen clause" shall provide for thirty (30) days' notice prior to expiry date for nonrenewal.

H. Reinsurance Agreement Provisions.

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(1) To pay or reimburse the ceding insurer for:

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(i) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies: and

(ii) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement;

(iii) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the specific reinsurance remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U. S. financial institution apart from its general assets, in trust for such uses and purposes specified in Subsection H.1.b.(1) of this section as may remain after withdrawal and for any period after the termination date.

c. All of the provisions of Paragraph 1 of this subsection shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in Paragraph 1 of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

a. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Paragraph 1.b. of this subsection: and/or

b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

Section XII. Other security.

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section XIII. Reinsurance contract.

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections III, IV, V, VI or IX of this regulation or otherwise in compliance with Section 38-9-200 after the adoption of this regulation unless the reinsurance agreement:

A. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Section 38-27-510;

B. Includes a provision pursuant to Section 38-9-200(G) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and

C. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

Section XIV. Contracts affected.

All new and renewal reinsurance transactions entered into after December 31, 1993, shall conform to the requirements of Sections 38-9-190 through 38-9-220 and this regulation if credit is to be given to the ceding insurer for such reinsurance.

Form AR-1 Certificate of assuming insurer
FORM AR-1
CERTIFICATE OF ASSUMING INSURER
I, _____ (Name of Officer), _____ (Title of Officer) of _____ (Name of Assuming Insurer), the assuming insurer under a reinsurance contract with one or more insurers domiciled in South Carolina hereby certify that _____ (Name of Assuming Insurer) (“Assuming Insurer”):

1. Submits to the jurisdiction of any court of competent jurisdiction in South Carolina for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the director or his designee of South Carolina as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the director or his designee of South Carolina to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in South Carolina reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the director or his designee at least once per calendar quarter.

Dated:	
	(Name of Assuming Insurer)

BY:	
	(Name of Officer)
	(Title of Officer)

Form CR-1 Certificate of Certified Reinsurer
 FORM CR-1
 CERTIFICATE OF CERTIFIED REINSURER

I, _____ (Name of Officer), _____ (Title of Officer) of _____ (Name of Assuming Insurer), the assuming insurer under a reinsurance agreement with one or more insurers domiciled in South Carolina, in order to be considered for approval in this state, hereby certify that _____ (name of assuming insurer) (“Assuming Insurer”):

1. Submits to the jurisdiction of any court of competent jurisdiction in South Carolina for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District court, or to seek a transfer of a case to another court as permitted by the laws

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of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the director of the South Carolina Department of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with S.C. Reg. 69-53.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statement, regulatory filings, and actuarial opinion in accordance with S.C. Reg. 69-53.

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated:	
	(Name of Assuming Insurer)

BY:	
	(Name of Officer)

Fiscal Impact Statement:

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 69-53.

Statement of Rationale:

The proposed amendments to this regulation are based upon a recently approved NAIC model law and regulation. The amendments are part of a larger effort to modernize reinsurance regulation in the United States. The reinsurance framework is based on federal legislation. On July 21, 2010, Congress and the President signed related federal legislation, the Non-admitted and Reinsurance Reform Act which became effective on July 21, 2011. While this Act does not implement the NAIC framework, it does preempt extraterritorial application of state credit for reinsurance law and permits states of domicile to proceed forward with reinsurance collateral on an individual basis if the state is accredited. The federal legislation also does not prohibit states from acting together to achieve reinsurance modernization. The proposed changes would allow the director or his designee to adopt additional requirements relating to 1) the valuation of assets or reserve credits; 2) the amount and forms of security supporting reinsurance arrangements; and 3) the circumstances under which reinsurance credit can be reduced or eliminated. The amendments are part of a national framework based, in part, upon federal legislation. Accordingly, most states must adopt regulations that are substantially similar in material aspects to the NAIC model regulation in the handling and treatment of such reinsurance arrangements. Conforming to the NAIC's credit for reinsurance models is necessary for a state to maintain NAIC accreditation.

Document No. 4764
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 10
 Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-6-50 and 40-6-60

10-5. Auctioneers' Commission.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, on behalf of the Auctioneers' Commission, proposes to amend its regulations relating to fees charged by the Board to correct a scrivener's error by adding the late fees, currently appearing in Chapter 14, into the Department's chapter of the regulations which contains the boards' fee schedules.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

10-5. Auctioneers' Commission.

The Board shall charge the following fees:

A. Auctioneers	
1. New License:	\$435 (total)
a. Two-year License:	\$300
b. Recovery Fund:	\$100
c. Examination Fee:	\$25
d. Credit Report:	\$10
e. Pro-rated amount:	\$235
2. Applicants for Licensure by Reciprocity:	\$410 (total)
a. Two-year License:	\$300
b. Recovery Fund:	\$100
c. Credit Report:	\$10
d. Pro-rated amount:	\$210
3. Biennial Renewal:	\$300
a. Late fee – on or before July 31	\$25
b. Late fee – After July 31 and on or before September 30	\$100
B. Auction Firm	
1. New License:	\$410 (total)
a. Two-Year License:	\$300
b. Recovery Fund:	\$100
c. Credit Report:	\$10
d. Pro-rated amount:	\$210
2. Biennial Renewal:	\$300
a. Late fee – on or before July 31	\$25
b. Late fee – After July 31 and on or before September 30	\$100
C. Apprentice Auctioneer:	
1. New License:	\$235 (total)
a. One-year license:	\$150
b. Recovery Fund fee:	\$50
c. Exam Fee:	\$25

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d. Credit Report:	\$10
2. Renewal:	\$200 (may be renewed one time)
a. License Fee:	\$150
b. Late fee – on or before July 31	\$25
c. Late fee – After July 31 and on or before September 30	\$100
d. Recovery Fund Fee:	\$50
D. Miscellaneous Fees:	
1. Licensee List Request:	\$10
2. Duplicate license (wallet card):	\$10
3. License verification:	\$5
4. New license card for change of name or address:	\$10

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will correct a scrivener's error. In 2014, the Auctioneers' Commission, along with the majority of the boards and commissions housed within the umbrella agency, the South Carolina Department of Labor, Licensing and Regulation, voted to move their fee schedules into a newly-created chapter of the Code of Regulations, Chapter 10. The late fees, appearing in Reg. 14-12, however, were not included in the fee schedule that moved. The proposed regulation, herein, seeks to correct this error.

Document No. 4801
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 10
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70 and 40-67-70

10-41. Board of Examiners in Speech-Language Pathology and Audiology.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Reg. 10-41 to reduce the fee for reinstatement of a license issued by the Board of Examiners in Speech-Language Pathology and Audiology: for Audiologists and Speech-Language Pathologists, from \$270 to \$210; and for Speech-Language Pathology Assistants, from \$150 to \$90.

A Notice of Drafting was published in the *State Register* on October 27, 2017.

Instructions:

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

Text:

10-41. Board of Examiners in Speech-Language Pathology and Audiology.

The Board shall charge the following fees:

A. Initial License Fees:	
1. Audiologist and Speech-Language Pathologist License Fee:	\$220
2. Audiologist and Speech-Language Pathologist Intern Fee:	\$110
3. Audiologist and Speech-Language Pathologist Inactive License Status	\$100
4. Speech-Language Pathologist Assistant:	\$50
B. Renewal Fees:	
1. Audiologist and Speech-Language Pathologist Biennial License Fee:	\$160
2. Annual Intern License Fee:	\$110
3. Audiologist and Speech-Language Pathologist Biennial Inactive License Status:	\$100
4. Biennial Speech-Language Pathologist Assistant:	\$40
C. Reinstatement Fee: \$50 for renewals received after 3/31 but before 5/1	
1. Audiologist and Speech-Language Pathologist Licensee:	\$210
2. Speech-Language Pathology Assistant:	\$90
D. Reactivation of Inactive License:	\$120
E. Fee for change in supervising Speech-Language Pathologist or Audiologist Intern during internship while completing the Supervised Professional Employment program:	
	\$25
F. Miscellaneous Fees:	
1. Replacement Fee:	\$10 for replacing a license or wallet card
2. Roster or List Fee:	\$10
3. Returned check fee:	\$30 or amount provided by statute

Fiscal Impact Statement:

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

Statement of Rationale:

This change will correctly reflect a previous reduction in the renewal fees for licensees in the reinstatement fee assess if renewal does not occur in a timely manner.

Document No. 4763
DEPARTMENT OF LABOR, LICENSING AND REGULATION
 CHAPTER 10
 Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-60-10(I)(3) and 40-60-360

10-36. Real Estate Appraisers Board.

Synopsis:

The Department of Labor, Licensing and Regulation, Real Estate Appraisers Board, proposes to make changes to certain fees including removing fees not currently charged and adding fees for appraisal management companies.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

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Text:

10-36. Real Estate Appraisers Board.

The Board shall charge the following fees:

- | | |
|--|--|
| (1) Apprentice appraiser permit: | \$400 |
| (2) Apprentice appraiser permit renewal: | \$400 |
| (3) Mass appraiser renewal: | \$400 |
| (4) Appraiser license/certification: | \$400 |
| (5) Appraiser license/certification renewal: | \$400 |
| (6) Appraisal Management Company registration fee for 2018-2019:
(Representing \$500 each year for the first two-year registration) | \$1000 |
| (7) Late penalty for renewal of license/certification/inactive status: | |
| (a) July 1 through July 31: | \$75 |
| (b) August 1 through August 31: | \$100 |
| (c) After August 31 and before next renewal period: | \$150 |
| (8) Late penalty for renewal of registration status:
July 1 through June 30 (per month): | \$100 |
| (9) Permit/license/certification replacement fee (per application): | \$25 |
| (10) Personal or company name change (per application): | \$15 |
| (11) Inactive status: | \$200 |
| (12) Reinstatement from inactive licensed or certified appraiser: | \$400 |
| (13) Attestation of license/certification (per request): | \$20 |
| (14) Course approval (under 15 hours) (per application): | \$100 |
| (15) Course approval (15 hours or more) (per application): | \$200 |
| (16) Course approval renewal: | \$100 |
| (17) Penalty for late course renewal: | \$50 |
| (18) Instructor approval (per application): | \$200 |
| (19) Instructor approval renewal: | \$150 |
| (20) Penalty for late instructor renewal: | \$50 |
| (21) Appraisers or Appraisal Management Company roster (per request): | \$40 |
| (22) Change in appraiser classification (per application): | \$75 |
| (23) Appraiser equivalent continuing education approval (per application): | \$50 |
| (24) Bad check charge (per occurrence): | \$30 (or amount specified by law;
see Section 34-11-70) |
| (25) Temporary practice permit (per application): | \$150.00 |
| (26) In addition to fees listed above, an annual Federal Registry Transmittal fee of \$40 established by Public Law 101-73, Title XI, Real Estate Appraisal Reform Amendments, will be charged for all licenses and certifications and shall be collected on a biennial basis (\$80). | |
| (27) An annual Appraisal Management Federal Registry Transmittal fee from registered appraisal management companies and federally regulated appraisal management companies in the amount determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall be collected biennially. | |

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will remove fees that the program no longer needs to charge and to add fees that are necessary to expand the scope of services that the Real Estate Appraisers Board provides to include the regulation of appraisal management companies.

Document No. 4776

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

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-57-60, and 40-57-70

10-37. Real Estate Commission.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, on behalf of the Real Estate Commission, proposes to amend its regulation containing the fee schedule to modify fees for inactive licensees and correct a scrivener's error.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

10-37. Real Estate Commission.

The Board shall charge the following fees:

A. New License:

- 1. Broker-in-Charge/Property Manager-in-Charge (biennial) \$250
- 2. Broker/Property Manager (biennial) \$125
- 3. Salesperson (Provisional), (annual) \$25
- 4. Credit report for applicant by reciprocity \$10
- 5. Salesperson applicant from non-reciprocity states \$50 (biennial)

B. Renewal:

- 1. Broker-in-Charge/Property Manager-in-Charge (biennial) \$75
- 2. Broker/Inactive Broker/Property Manager/Inactive Property Manager (biennial) \$55
- 3. Salesperson/Inactive Salesperson (biennial) \$45
- 4. The late renewal fee is \$25 per month, beginning July 1st through December 31st. After December 31st, the licensee must reapply.
- 5. Timeshare Salesperson: \$50

C. Licensing Transactions:

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1. Upgrade of Salesman Provisional License	\$25
2. License Transfer	\$0
3. Duplicate License	\$10
4. Certification of Licensure	\$5
5. Personal Name Change	\$10
6. Change of License Status	
a. BIC/PMIC to Broker/Property Manager	\$10
b. Activate License (same classification) from Inactive	\$10
c. Company Name or Address Change	\$10
(\$10 per licensee or maximum of \$250 an office)	

D. Examination Process

1. Application	\$25
2. Credit Report	\$10
3. Examination is payable directly to examination vendor.	

E. Provider, Course, and Instructor Fees

1. Course provider approval	\$200
2. Course provider renewal	\$100
3. Course approval	\$100
4. Course approval renewal	\$50
5. Instructor approval	\$100
6. Instructor renewal	\$50
7. Late renewal (after August 31st) for provider, course, or instructor	\$50

The education year is September 1st of even-numbered years through August 31st.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will establish uniform fees for active and inactive licensees and will correct a scrivener's error.

Document No. 4796
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD

CHAPTER 29
Statutory Authority: 1976 Code Section 40-11-60

Synopsis:

The South Carolina Contractor's Licensing Board proposes to amend its regulations to establish terms for compliance with and enforcement of 2016 Act No. 193.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

29-13. Mechanical Contractors – Air conditioning, Heating and Packaged Equipment.

1. Each contractor licensed in these mechanical contractors sub classifications shall conspicuously display the mechanical contractor license issued to it by the South Carolina Department of Labor, Licensing and Regulation in an area accessible to the public at the contractor’s principal place of business.

2. Each contractor licensed in these mechanical contractor sub classifications shall prominently display its mechanical contractor license number issued to it by the South Carolina Department of Labor, Licensing and Regulation on all vehicles used exclusively by the contractor in the daily operation of its business. The license number shall be a minimum of two (2) inch high letters and numbers, on a contrasting background, displayed on both sides of the vehicle.

3. Each invoice and proposal form for these licensed mechanical contractor sub classifications shall contain the mechanical contractor license number issued by the South Carolina Department of Labor, Licensing and Regulation.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will comply with the requirements of 2016 Act No. 193, codified at S.C. Code Section 40-11-270, which requires that all commercial vehicles, used by mechanical contractors licensed in the sub classification of air conditioning, heating or packaged equipment exclusively in the operation of their business, shall have prominently displayed on them the mechanical contractor license number issued by the Department. Additionally, the act requires that invoices and proposal forms contain the same.

Document No. 4795

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE
AND FAMILY THERAPISTS AND PSYCHO-EDUCATIONAL SPECIALISTS
CHAPTER 36**

Statutory Authority: 1976 Code Section 40-75-60

36-01 through 36-23. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists.

Synopsis:

The South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists proposes to amend its regulations to revise and update licensing requirements, decrease the number of intern practicum hours, revise the allocation of supervised clinical experience hours, allow a portion of the required supervision to be obtained online, and revise the continuing education requirements.

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A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

ARTICLE 1

DEFINITIONS

36-01. Definitions.

Definitions found in Section 40-75-20 apply to this chapter.

(1) "Supervision" means direct contact between a supervisor and an intern or other person requiring supervision under this chapter. Seventy-five (75%) percent of the supervision must be face-to-face, and the remaining twenty-five (25%) percent may be conducted via a HIPAA-compliant technological medium. During this time, the person supervised appraises the supervisor of the diagnosis and treatment of each client seen during the supervisory process. The supervisor provides the supervised person with oversight and guidance in diagnosing, treating, and dealing with clients, and the supervisor evaluates the supervised person's performance. The focus of a supervision session is on raw data from clinical work which is made directly available to the supervisor through such means as written clinical materials, direct (live) observation, co-therapy, audio and video recordings, and live supervision. Supervision is a process clearly distinguishable from personal psychotherapy and is contrasted in order to serve professional goals. The major focus in supervision of supervisors is on the development of supervisory abilities as opposed to an exclusive focus on clinical skills.

(2) "Group supervision" means a regularly scheduled meeting of not more than six (6) supervisees, and an approved supervisor, for a minimum of two (2) hours.

(3) "Individual/triadic supervision" means a meeting of one (1) or two (2) supervisees with a supervisor for a period of at least a one (1) hour session.

(4) "Intern licensure" means an authorization to engage in a distinctly defined, post-degree, supervised experience intended to enable and to refine and enhance basic skills, develop more advanced therapy skills, and integrate professional knowledge and skills appropriate to the individual's initial professional placement. Intern licensure status provides an opportunity, under supervision, for the individual to perform all the activities that a regularly employed staff member in the setting would be expected to perform.

(5) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry level educational requirements for professional counselors, marriage and family therapists, and psycho-educational specialists.

(6) "Contact hour" means a minimum of fifty (50) minutes of instruction.

(7) "Impairment" means impairment of mental and/or physical ability to practice according to acceptable and prevailing standards of care including, but not limited to, habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. Impairment includes inability to practice in accordance with such standards, and treatment, monitoring, and supervision.

(8) "Relapse" means any use of alcohol or of a drug or substance that may impair ability to practice during or after any approved treatment program, except pursuant to the directions of a treating physician who has knowledge of the patient's history and the disease of addiction, or pursuant to the direction of a physician in a medical emergency.

(9) "Approved treatment provider" means a treatment provider approved by the Board.

(10) "Sobriety" means abstinence from alcohol, and from drugs or substances that may impair ability to practice, except pursuant to the directions of a treating physician who has knowledge of the patient's history and the disease of addiction, or pursuant to the direction of a physician in a medical emergency.

(11) "Qualified licensed mental health practitioner" means a person licensed as a Professional Counselor Supervisor, Marriage and Family Therapy Supervisor, Psychologist, or Medical Doctor, and approved by the Board, who possesses the knowledge and expertise necessary to provide a supervised person with guidance and

direction, in a structured program, to gain knowledge and skills associated with the diagnosis and treatment of serious problems as categorized in standard diagnostic nomenclature.

(12) “DSM” means the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(13) “Serious Problems” are those disorders as categorized in standard diagnostic nomenclature such as the DSM with the exception of codes assigned to normal lifecycle transitional conflicts.

(14) “Specific training to diagnose, assess and treat serious problems” – Any Licensed Professional Counselor-Intern, Licensed Professional Counselor, or Licensed Marriage and Family Therapist-Intern, Licensed Marriage and Family Therapist, or Psycho-Educational Specialist, who has met the applicable licensing provisions for Licensed Professional Counselor-Intern and/or Licensed Professional Counselor, or for Licensed Marriage and Family Therapist-Intern and/or Licensed Marriage and Family Therapist, or Psycho-Educational Specialist set forth in Sections 36-04 and 36-05, and Section 36-07 and 36-08, respectively, is deemed to have the requisite training to diagnose, assess and treat serious problems. If a client presents with a problem which is beyond the licensee’s training and competence, the licensee must refer the problem to a licensed professional who has been specifically trained to diagnose, assess and treat the presenting problem.

ARTICLE 2

OFFICERS OF BOARD; MEETINGS

36-02. Officers of Board.

At the first meeting of each calendar year, the Board shall elect from among its professional members a president, vice-president, and other officers as the Board determines necessary.

36-03. Meetings.

(1) The Board shall meet at least two (2) times a year and at other times upon the call of the president or a majority of the Board members.

(2) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(3) Board members are required to attend meetings or to provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240. Affirmative action by the Board is required to approve an excused absence, and the status of an absence as excused or unexcused is entirely within the Board’s discretion.

ARTICLE 3

LICENSING PROVISIONS

36-04. Licensing Provisions for Professional Counselor Interns.

An applicant for initial licensure as a professional counselor intern must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) show evidence of completion from a counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) at the time of graduation; or

(3) submit evidence of successful completion of a graduate degree with a minimum of forty-eight (48) graduate semester hours primarily in counseling or related discipline from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally-accredited institution of higher learning subsequent to receiving the graduate degree, along with evidence of an earned master’s degree, specialist’s degree or doctoral degree. On one’s graduate transcript the applicant must demonstrate successful completion of one (1) three-hour graduate level course in each of the following areas:

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(a) Human growth and development: coursework content providing an understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory, and learning theory (all) within cultural contexts; and

(b) Social and cultural foundations: coursework content providing an understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; and

(c) Helping relationships: coursework content providing an understanding of philosophic bases of helping processes, counseling theories and their applications, helping skills, consultation theories and applications, helper self-understanding and self-development, and facilitation of client or consultee change; and

(d) Groups: coursework content providing an understanding of group development, dynamics, and counseling theories; group leadership styles, group counseling methods and skills, and other group approaches; and

(e) Lifestyle and career development: coursework content providing an understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education; lifestyle and career decision-making; and career development program planning, resources, and evaluation; and

(f) Appraisal: coursework content providing an understanding of group and individual education and psychometric theories and approaches to appraisal, data, and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes; and

(g) Research and evaluation: coursework content providing an understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations; and

(h) Professional orientation: coursework content providing an understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing; and

(i) Psychopathology and/or diagnostics: coursework content providing an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, treatment of abnormal behavior and an understanding of the diagnostics of Psychopathology; and

(j) Practicum: a minimum of one (1) supervised one hundred (100) hour counseling practicum; and

(k) Internship: completed an internship, as part of a degree program, of at least six hundred (600) hours under the supervision of a qualified licensed mental health practitioner that included experience assessing and treating clients with more serious problems as categorized in standard diagnostic nomenclature; and

(4) submit evidence of a passing score on examinations approved by the Board; and

(5) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Professional Counselor Intern.

36-05. Licensing Provisions for Licensed Professional Counselors.

An applicant for licensure as a professional counselor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted professional counselor intern license; and

(3) submit, on forms approved by the Board, documentation of completion of a minimum of one thousand five hundred (1500) hours of post-master's clinical experience and post master's clinical supervision in the practice of professional counseling performed over a period of not fewer than two (2) years. Of the one thousand five hundred (1500) hours, there must be a minimum of one thousand three hundred eighty (1,380) hours of documented direct client contact and a minimum of one hundred twenty (120) hours of documented supervision by a licensed professional counselor supervisor or other qualified licensed mental health practitioner approved by the Board that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. At least one hundred (100) hours of the supervision hours must be individual, and the remaining twenty (20) hours may be individual/triadic or group.

36-06. Licensing Provisions for Licensed Professional Counselor Supervisors.

An applicant for licensure as a professional counselor supervisor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

- (2) hold a current, active, and unrestricted South Carolina Professional Counselor License; and
- (3) submit evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application. Continuous clinical experience is any counseling experience gained as in certification by the National Board for Certified Counselors (NBCC), National Association of Alcoholism and Drug Abuse Counselors (NAADAC), or South Carolina Association of Alcoholism and Drug Abuse Counselors (SCAADAC) or a licensed professional counselor. At least two years of the five years must be experience supervising the clinical casework of other NBCC, NAADAC, or SCAADAC certified counselors or licensed counselors; and
- (4) submit evidence of a minimum of thirty-six (36) hours of individual/triadic supervision, by a Board licensed professional counselor supervisor, of the applicant's supervision of at least two (2) licensed professional counselor interns; and
- (5) submit evidence of a minimum of three (3) semester hours of graduate study in supervision oriented to their discipline or training approved by the Board.

36-07. Licensing Provisions for Marriage and Family Therapy Interns.

An applicant for initial licensure as a marriage and family therapy intern must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) submit proof of graduating from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or
- (3) submit evidence of successful completion of a minimum of forty-eight (48) graduate semester hours in marriage and family therapy from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one (1) of its transferring regional associations, the Association of Theological Schools in the United States and Canada, a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree, along with evidence of an earned master's degree, specialist's degree, or doctoral degree. The applicant must demonstrate successful completion of:
 - (a) a minimum of six (6) graduate semester hours in foundations of relational/systemic practice, theories and models. This area facilitates students developing competencies in the foundations and critical epistemological issues of Marriage and Family Therapists. It includes the historical development of the relational/systemic perspective and contemporary conceptual foundations of Marriage and Family Therapists, and early and contemporary models of the Marriage and Family Therapist, including evidence-based practice and the biopsychosocial perspective; and
 - (b) a minimum of six (6) graduate semester hours in clinical treatment with individuals, couples and families. This area facilitates students developing competencies in treatment approaches specifically designed for use with a wide range of diverse individuals, couples, and families, including sex therapy, same-sex couples, working with young children, adolescents and elderly, interfaith couples, and includes a focus on evidence-based practice. Coursework must include crisis intervention; and
 - (c) a minimum of three (3) graduate semester hours in diverse, multicultural and/or underserved communities. This area facilitates students developing competencies in understanding and applying knowledge of diversity, power, privilege, and oppression as these relate to race, age, gender, ethnicity, sexual orientation, gender identity, socioeconomic status, disability, health status, religious, spiritual and/or beliefs, nation of origin or other relevant social categories throughout the curriculum. It includes practice with diverse, international, multicultural, marginalized, and/or underserved communities, including developing competencies in working with sexual and gender minorities and their families as well as anti-racist practices; and
 - (d) a minimum of three (3) graduate semester hours in research and evaluation. This area facilitates students developing competencies in Marriage and Family Therapy research and evaluation methods, and in evidence-based practice, including becoming an informed consumer of couple, marriage, and family therapy research. If the program's mission, goals and outcomes include preparing students for doctoral degree programs, the program must include an increased emphasis on research; and
 - (e) a minimum of three (3) graduate semester hours in professional identity, law, ethics and social responsibility. This area addresses the development of a Marriage and Family Therapy identity and socialization,

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and facilitates students developing competencies in ethics and Marriage and Family Therapy practice, including understanding and applying the AAMFT Code of Ethics and understanding legal responsibilities; and

(f) a minimum of three (3) graduate semester hours in biopsychosocial health and development across the life span. This area addresses individual and family development, human sexuality, and biopsychosocial health across the lifespan; and

(g) a minimum of three (3) graduate semester hours in systemic/relational assessment and psychopathology, diagnosis and treatment. This area facilitates students developing competencies in traditional psychodiagnostic categories, psychopharmacology, the assessment, diagnosis, and treatment of major mental health issues as well as a wide variety of common presenting problems including addiction, suicide, trauma, abuse, intra-familial violence, and therapy for individuals, couples, and families managing acute chronic medical conditions, utilizing a relational/systemic philosophy; and

(h) a minimum of five hundred (500) clinical contact hours with individuals, couples, families, and other systems physically present, at least forty (40%) percent of which must be relational. The five hundred (500) hours must occur over a minimum of twelve (12) months of clinical practice. A minimum of one hundred (100) hours of clinical supervision must be provided by a marriage and family therapy supervisor, that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature; and

(4) submit evidence of a passing score on examinations approved by the Board; and

(5) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of licensure as a Licensed Marriage and Family Therapy Intern.

(6) submit a professional disclosure statement as found in S.C. Code Section 40-75-270.

36-08. Licensure Provisions for Marriage and Family Therapists.

An applicant for licensure as a Marriage and Family Therapist must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted Marriage and Family Therapy Intern license unless applying under the provisions of Section 36-11; and

(3) submit, on forms approved by the Board documentation of completion of a minimum of one thousand five hundred (1500) hours of post-master's clinical experience and post-master's clinical supervision in marriage and family therapy performed over a period of no fewer than two (2) years. Of the one thousand five hundred (1500) hours, there must be a minimum of one thousand three hundred eighty (1,380) documented direct client contact hours and a minimum of one hundred twenty (120) documented hours of supervision by a licensed marriage and family therapy supervisor or other qualified licensed mental health practitioner approved by the Board, that includes experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. At least one hundred (100) hours of the supervision hours must be individual, and the remaining twenty (20) hours can be individual/triadic or group.

36-09. Licensure Provisions for Licensed Marriage and Family Therapy Supervisors.

An applicant for licensure as a marriage and family therapy supervisor must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted South Carolina Marriage and Family Therapy License; and

(3) submit evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application. Two years of the five years must be clinical supervision under a licensed Marriage and Family Therapy Supervisor; and

(4) submit evidence of a minimum of thirty-six (36) hours of individual/triadic supervision by a Board licensed marriage and family therapy supervisor of the applicant's supervision of at least two (2) marriage and family therapy interns; and

(5) submit evidence of a minimum of three (3) semester hours of graduate study in supervision or training approved by the Board.

36-10. Licensure Provisions for Psycho-educational Specialists.

An applicant for initial licensure as a psycho-educational specialist must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) submit evidence of successful completion of an earned master's degree plus thirty (30) graduate semester hours, or an earned sixty (60) graduate semester hour master's degree, or a sixty (60) graduate semester hour specialist's degree, or a doctoral degree in school psychology from an institution of higher education whose program is approved by the National Association of School Psychologists or the American Psychological Association or a program which the Board finds to be substantially equivalent. A substantially equivalent program must include an earned master's, specialist's, or doctoral degree in an applied area of psychology, education, or behavioral sciences from a regionally accredited institution, completion of at least sixty (60) graduate semester hours, and substantial preparation, including coursework, in the following areas:
 - (a) psychological foundations, including biological bases of behavior; human learning; child and adolescent development; social/cultural bases of behavior; and individual differences (exceptionalities/psychopathology of children and youth); and
 - (b) educational foundations, including organization and operation of schools; and instructional/remedial design; and
 - (c) assessment and intervention, including diverse methods of individual assessment that can be linked to intervention; direct intervention including counseling and behavior analysis/intervention; and indirect intervention including a consultation with school personnel and families; and
 - (d) statistics and research methodologies; and
 - (e) professional school psychology, including history and foundations of school psychology; legal and ethical issues; professional issues and standards; alternative models of service delivery; emergent technologies; and roles and functions of school psychologists; and
 - (f) a one-year twelve hundred (1200) hour internship, at least one-half (1/2) of which must be in an approved school setting. The internship shall include a full range of psycho-educational services supervised by a licensed psycho-educational specialist or certified or licensed school psychologist. If a portion of the internship is completed in a non-school setting, supervision may be provided by a psychologist appropriately credentialed for that setting as approved by the Board. The possession of a National Certified School Psychologist (NCSP) credential issued after January 1, 1988 shall be evidence of completion of a satisfactory program as provided above; and
 - (g) has completed, within three (3) years after the effective date of these regulations, a minimum of three (3) graduate semester hours in Psychopathology in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and
 - (h) has completed, within three (3) years after the effective date of these regulations, a minimum of three (3) graduate semester hours in Diagnostics in academic training from a college or university approved by the Board. This course must provide the practitioner with an understanding of the diagnostics of psychopathology; and
- (3) provide evidence satisfactory to the Board of certification by the South Carolina Department of Education in school psychology level II or III; and
- (4) provide evidence satisfactory to the Board that the applicant has successfully served as a certified school psychologist for at least two (2) years in a school or comparable setting. After January 1, 2000, one (1) year must have been under the supervision of a licensed psycho-educational specialist that included experience assessing and treating clients with the more serious problems as categorized in standard diagnostic nomenclature. One (1) year of experience is defined as full-time employment for one (1) contract year of at least one hundred ninety (190) work days. Two (2) consecutive years of half-time work may, at the discretion of the Board, be deemed to be equivalent to one (1) full year of experience. The experience must include provision of a full range of services to children, youth, and families. Experience acquired under a provisional or temporary certificate in school psychology, or in a pre-degree practicum or internship, may not count toward this experience requirement; and
- (5) submit evidence of a passing score on examinations approved by the Board.

36-11. Licensure by Endorsement.

An applicant for licensure as a professional counselor, marriage and family therapist, or psycho-educational specialist by endorsement must:

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- (1) hold a current, active, and unrestricted license in good standing under the laws of another state or territory that had requirements that were, at the date of initial licensure, substantially equivalent to or higher than the requirements in effect in South Carolina at the date of initial licensure; and
- (2) submit an application on a form approved by the Board, along with the required fee; and
- (3) provide other documentation, as required by the Board.

36-12. Reactivation of Expired Licenses.

(1) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for at least three (3) months, but fewer than two (2) years, may reactivate the license upon application, along with the required fee, and demonstration of evidence satisfactory to the Board on a form approved by the Board of the requisite continuing education hours for each year during which the license was expired. The Board for good cause may waive any part of this continuing education requirement upon appropriate conditions.

(2) A licensed professional counselor, marriage and family therapist, psycho-educational specialist, professional counselor supervisor, or marriage and family therapist supervisor whose license has been expired for more than two (2) years must re-apply and meet all of the requirements, at the time of application, for licensure.

(3) Any applicant for reactivation shall submit a notarized affidavit certifying that they have not been engaged in the practice of counseling, marriage and family therapy, psycho-education specialty outside of the school setting, professional counselor supervising or marriage and family therapy supervising during the period their license was not in an active status.

ARTICLE 4

CONTINUING EDUCATION

36-13. Continuing Education Requirements for Professional Counselors and Marriage and Family Therapists.

(1) Persons licensed as professional counselors or marriage and family therapists shall complete forty (40) hours of continuing education, of which thirty-four (34) hours must be related to their respective professional license and six (6) hours must be specific to ethical standards related to their respective professional license during every two-year licensure period. Persons licensed both as professional counselors and marriage and family therapists must complete fifty (50) hours of formal continuing education during every two-year licensure period as a condition of renewal of their licenses. Of the fifty (50) hours, six (6) hours must be specific to ethical standards related to their respective professional license, and at least twenty-two (22) hours must be related to each discipline. Persons licensed as professional counselor supervisors or marriage and family therapy supervisors must complete ten (10) hours of formal continuing education in supervision of their discipline during every two-year licensure period as a condition of renewal of their license. Persons licensed both as professional counselor supervisors and marriage and family therapy supervisors must complete ten (10) hours of formal continuing education in supervision, at least five (5) hours of which must be in supervision of each discipline. A maximum of fifteen (15) hours may be obtained through informal continuing education.

(2) Any formal continuing education activity sponsored by a professional counselor certifying body, marriage and family therapy certifying body, NAADAC, or SCAADAC approved by the Board as a continuing education sponsoring body, or one of its regional or state divisions, is automatically approved for the formal continuing education requirement.

(3) Unapproved sponsoring organizations must request advance approval on Board-approved forms ninety (90) days prior to each continuing education event. In order to request approval, the sponsoring organization must submit an agenda of the session, the curriculum vitae of all presenters and a copy of the evaluation documents.

(4) The Board accepts informal continuing education using the following guidelines:

- (a) a first time presentation of a paper, workshop, or seminar for a national, regional, statewide, or other professional meeting may be approved for a maximum of five (5) continuing education hours; and
- (b) a published paper in a referred journal may be approved for a maximum of five (5) continuing education hours and may be used only once; and

(c) preparation of a new or related course for an educational institution or organization may be approved for a maximum of five (5) continuing education hours; and

(d) individual self-study to include use of on-line studies, audio-visual materials, reading of professional journals and books, and participation in professional study and discussion groups may be approved based on the number of hours recommended by the sponsoring organization or the number of hours engaged in the activity for a total of fifteen (15) hours during each two-year licensure period.

(5) No hours may be carried forward from the renewal period in which they were earned.

(6) No more than fifty (50%) percent of continuing education credit may be taken online.

36-14. Continuing Education Requirements for Psycho-educational Specialists.

(1) Persons licensed as psycho-educational specialists shall complete forty (40) hours of continuing education of which thirty-four (34) hours must be related to their respective professional license and six (6) hours must be specific to ethical standards related to their respective professional license during every two-year licensure period. Persons licensed as both a psycho-educational specialist and a professional counselor and/or marriage and family therapist must complete at least fifty (50) hours of formal continuing education during every two-year licensure period as a condition of renewal of their licenses. Of the fifty (50) hours, six (6) hours must be specific to ethical standards related to their respective professional license and at least twenty-two (22) must be related to each discipline.

(2) No more than fifty (50%) percent of continuing education credit may be taken online.

(3) Continuing education credit for psycho-educational specialists may be awarded for documented completion of the following activities:

(a) a minimum of twenty (20) continuing education hours in workshops, conferences, formal in-service training, college or university courses, and teaching and training activities. A maximum of ten (10) hours may be awarded for attendance at workshops, conferences, or in-service training. For teaching and training activities, credit may be awarded only for the first time the content is taught and limited to a maximum of ten (10) hours; or

(b) a maximum of twenty (20) continuing education hours in research and publications, supervision of interns, post-graduate supervised experiences, program planning/evaluation, self-study, and professional organizational leadership. A maximum of ten (10) hours may be awarded for unpublished research. A maximum of twenty (20) hours may be awarded for research and publication or presentation. A maximum of ten (10) hours may be awarded for articles published or posters presented. Each project may be claimed only once. A maximum of twenty (20) hours may be awarded for supervision of interns. No more than one (1) post-graduate supervised experience may be claimed in any renewal period. A maximum of fifteen (15) hours may be awarded for program planning/evaluation. A maximum of twenty (20) hours may be awarded for self-study. No more than one (1) activity may be counted per organization per year and a maximum of ten (10) hours may be awarded in professional organization leadership.

ARTICLE 5

FEES

36-15. Fees.

(A) The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-33 and on the South Carolina Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists at <http://llr.sc.gov/POL/Counselors/>.

(B) All fees are nonrefundable.

ARTICLE 6

TREATMENT FOR IMPAIRED PRACTITIONERS

36-16. Identification of Impaired Practitioners.

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(A) Any person licensed under Title 40, Chapter 75 of the Code of Laws of South Carolina shall report to the Board any belief that a practitioner suffers from an impairment that does presently or in the future may affect the ability of the practitioner to competently practice, unless:

(1) the individual, or the organization of which the individual is a part, is a treatment provider approved by the Board; and

(a) the practitioner maintains participation in treatment or aftercare; and

(b) the practitioner, if currently undergoing an inpatient treatment program, is not practicing and is following the guidelines set forth by the treatment program. If the practitioner is an out-patient, is maintaining sobriety and is enrolled in an approved aftercare program; or

(2) the individual is a member of an impaired practitioner committee, or the equivalent, established by a hospital or similar institution or its staff, or is a representative or agent of a committee or program sponsored by a professional association of individuals licensed under Title 40, Chapter 75 of the Code of Laws to provide peer assistance to practitioners with substance abuse problems; and

(a) the practitioner has been referred for examination to an approved treatment program; and

(b) the practitioner cooperates with the referral for examination and any determination that he should enter treatment; and

(c) the practitioner's ability to practice competently has not been affected; or

(3) the individual maintains a good faith belief that:

(a) the practitioner has been referred for examination to an approved treatment program; and

(b) the practitioner cooperates with the referral for examination and any determination that he should enter treatment; and

(c) the practitioner's ability to practice competently has not been affected; or

(4) the individual is otherwise prohibited from reporting to the Board by state or federal law.

(B) For purposes of this section, a reason to believe or a belief does not require absolute certainty or complete unquestioning acceptance; but only an opinion that an impairment exists based upon firsthand knowledge, or reliable information.

(C) Any report required by this section shall be made to the Board within forty-eight (48) hours.

36-17. Treatment of Complaints Pertaining to Impaired Practitioners.

(A) An individual who accepts the privilege of practicing under Title 40, Chapter 75 of the South Carolina Code of Laws in this State is subject to oversight by the Board. By filing an application or being licensed by the Board, the individual shall be deemed to give consent to submit to a mental or physical examination when ordered to do so by the Board in writing, and to have waived all objections to the admissibility of testimony or examination of reports that constitute privileged communications. Failure of the individual to submit to a mental or physical examination order by the Board constitutes an admission of the allegations against the individual licensee unless the failure is due to circumstances beyond the individual's control.

(B) When the Board receives information by the filing of a complaint, or upon its own information, that a licensee's ability to practice has fallen below the acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances and other physical or mental impairments that affect the ability to practice, the Board may order the licensee to submit to a mental or physical examination conducted by a designee of the Board for the purpose of determining if there is an impairment that poses a threat to the licensee's well-being or the treatment of a client whom the licensee serves.

(C) If the Board determines that the individual's ability to practice is impaired, the Board shall suspend or place restrictions on the individual's license to practice, or deny the individual's application, and require the individual to submit to treatment, as a condition for initial, continued, reinstated, or renewed licensure to practice.

(D) In cases where the Board has not initiated disciplinary action, the following general pattern of action shall be followed:

(1) upon identification by the Board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations; and

(2) if the examination or examinations fail to disclose impairment, no action shall be initiated unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment; and

(3) if the examination discloses impairment, or if the Board has other reliable, substantial, and probative evidence demonstrating impairment, including, but not limited to, evidence of relapse after the completion of inpatient or outpatient treatment, the Board shall initiate proceedings to suspend the license or deny licensure of the applicant; and

(4) before being eligible to apply for reinstatement of a license suspended under this section, the practitioner must demonstrate to the Board that a resumption of practice may be made in compliance with acceptable and prevailing standards of care under the provisions of an unrestricted license. Such demonstrations shall include, but shall not be limited to, the following:

(a) certification from a treatment provider approved by the Board that the practitioner has successfully completed any required inpatient treatment; and

(b) evidence of continuing full compliance with an aftercare contract or consent agreement; and

(c) two (2) written reports indicating that the individual's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the Board for making such assessments and shall describe the basis for this determination; and

(5) when the impaired practitioner resumes practice after reinstatement of his license, the Board shall require continued monitoring of the practitioner. This monitoring shall include, but not be limited to, compliance with any written consent agreement entered into before reinstatement or compliance with conditions imposed by the Board order after a hearing, and, upon termination of the consent agreement, submission by the practitioner to the Board, for at least two (2) years, of annual written progress reports made under penalty of perjury stating whether the license holder has maintained sobriety.

(E) In cases where the Board has initiated a disciplinary action, the general pattern of action described above shall be followed, except that:

(1) if the Board imposes a period of ineligibility for licensure, the individual shall not be eligible for a license reinstatement until the period has lapsed; or

(2) if the Board imposes an indefinite period of ineligibility, licensure, or license reinstatement shall depend upon successful completion of the requirements and determination by the Board that the period of suspension or ineligibility served is commensurate with the violations found.

36-18. Impaired Practitioner Treatment Programs.

(A) The Board may contract with providers of impaired treatment programs, or refer practitioners to Board-approved programs, receive and evaluate reports of suspected impairment from any source, intervene in cases of verified impairment, monitor treatment and rehabilitation of the impairment, provide post-treatment monitoring, and support and provide other functions as necessary to carry out the provisions of this regulation.

(B) The Board-approved treatment programs shall be provided with all relevant information from the Board and other sources regarding a practitioner referred to the program, including but not limited to, the potential impairment. The program shall report in a timely fashion any impaired professional counselor, marriage and family therapist, or psycho-educational specialist who refuses to cooperate with an evaluation or investigation, or who refuses to submit to treatment or rehabilitation, or whose impairment is not substantially alleviated through treatment or who, in the opinion of the evaluators, is unable to practice professional counseling, marriage and family therapy, or psycho-education with reasonable skill and safety.

(C) All Board-approved programs must:

(1) report to the Board the name of any impaired practitioner who fails to enter treatment within forty-eight (48) hours following the provider's determination that the practitioner needs treatment; and

(2) require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare; and

(3) require a practitioner to suspend practice upon entry into any required inpatient treatment; and

(4) report to the Board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare; and

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(5) report to the Board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care; and

(6) require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the Board for approval of treatment providers.

ARTICLE 7

CODES OF ETHICS

36-19. Code of Ethics for Professional Counselors.

(A) General.

(1) Professional Counselors shall engage in continuous efforts to improve professional practices, services, and research and shall be guided in their work by evidence of the best professional practices.

(2) Professional Counselors shall recognize their responsibility to the clients they serve and the institutions in which the services are performed and shall strive to assist the respective agency, organization, or institution in providing competent and ethical professional services. The acceptance of employment in an institution shall mean that the Professional Counselor is in agreement with the general policies and principles of the institution and that the professional activities of the Professional Counselor are in accord with the objectives of the institution. If the Professional Counselor and the employer do not agree and cannot reach agreement on policies that are consistent with appropriate counselor ethical practice that is conducive to client growth and development, the Professional Counselor shall terminate his employment and strive to change the unethical practice through appropriate professional organizations.

(3) Professional Counselors shall engage in ethical behavior at all times and shall take immediate action to report unethical behavior by professional interns to the Board or other appropriate authority.

(4) Professional Counselors must refuse remuneration for consultation or counseling with persons who are entitled to these services through the counselor's employing institution or agency and shall not divert to their private practices, without the mutual consent of the institution and the client, legitimate clients in their primary agencies, or the institutions with which they are affiliated.

(5) In establishing fees, Professional Counselors shall consider the financial status of clients, and if the established fee is inappropriate, must provide assistance to the client in finding comparable services at an acceptable cost. Professional Counselors shall not enter into any agreement wherein counseling services are exchanged as barter.

(6) Professional Counselors shall offer only professional services for which they are trained or have supervised experience. No diagnosis, assessment, or treatment shall be performed without prior training or supervision. Professional Counselors shall correct any misrepresentation of their qualifications by others.

(7) Professional Counselors shall recognize their limitations and provide services or use techniques for which they are qualified by training and/or supervision. Professional Counselors shall recognize the need for and seek continuing education to assure competent services.

(8) Professional Counselors must be aware of the intimacy in the counseling relationship and maintain respect for the client and must not engage in activities that seek to meet their personal or professional needs at the expense of the client.

(9) Professional Counselors shall not engage in personal, social, organizational, financial, or political activities which might lead to a misuse of their influence.

(10) Professional Counselors shall not engage in sexual intimacy with clients and shall not be sexually, physically, or romantically intimate with clients, nor engage in sexual, physical, or romantic intimacy with clients within two (2) years after terminating the counseling relationship.

(11) Professional Counselors shall not engage in sexual harassment or other unwelcome comments, gestures, or physical contact of a sexual nature, nor shall they condone such conduct in others.

(12) Professional Counselors shall guard the individual rights and personal dignity of their clients in the counseling relationship through an awareness of the impact of stereotyping and unwarranted discrimination.

(13) Professional Counselors shall be accountable at all times for their behavior and must be aware that all actions and behaviors reflect on professional integrity and, when inappropriate, can damage the public trust in

the counseling profession. To protect public confidence in the counseling profession, Professional Counselors shall avoid behavior that is clearly in violation of accepted moral and legal standards.

(14) Professional Counselors shall observe this Code of Ethics in all products and services offered, including but not limited to classroom instruction, public lectures, demonstrations, written articles, radio, and television programs.

(15) Professional Counselors must withdraw from the practice of counseling if the mental or physical condition of the Counselor renders it unlikely that a professional relationship can be maintained.

(B) Counseling Relationship.

(1) Professional Counselors shall respect the integrity and promote the welfare of clients, whether they are assisted individually, in family units, or in group counseling. In group settings, the Professional Counselor shall be responsible for taking reasonable precautions to protect individuals from physical and/or psychological trauma resulting from interaction within the group.

(2) Professional Counselors shall take into account the traditions and practices of other professional disciplines with whom they work and cooperate fully with them. If a person is receiving similar services from another professional, Professional Counselors shall not offer their own services directly to such a person. If a Professional Counselor is contacted by a person who is already receiving similar services from another professional, the Professional Counselor must carefully consider that professional relationship and the client's welfare and proceed with caution and sensitivity to the therapeutic needs of the client. When Professional Counselors learn that their clients are in a professional relationship with another mental health professional, the Professional Counselor must request release from the client to inform the other mental health professional of their relationship with the client and strive to establish positive and collaborative professional relationships that are in the best interest of the client. Professional Counselors shall discuss these issues with the client and the mental health professional so as to minimize the risk of confusion and conflict and encourage clients to inform other professionals of the new professional relationship.

(3) Professional Counselors may consult with any other professionally competent person about a client and shall inform the client of this possibility. Professional Counselors must avoid placing a consultant in a conflict-of-interest situation that would preclude the consultant serving as a proper party to the efforts to assist the client.

(4) Professional Counselors may share confidential information when there is a clear and imminent danger to the client and others, as provided by law.

(5) Professional Counselors shall maintain records of the counseling relationship which may include interview notes, test data, correspondence, audio or visual tape recordings, electronic data storage, and other documents. Records shall contain accurate factual data, and the physical record are the property of the Professional Counselor or their employers. Professional Counselors shall maintain records in accordance with the policy of the Board.

(6) Professional Counselors shall ensure that all data maintained in electronic storage are secure. Stored data shall be limited to information that is appropriate and necessary for the services provided and accessible only to appropriate staff members involved in the provision of services. Professional Counselors shall ensure that the electronically stored data are destroyed when the information is no longer of value in providing services or required as part of the client's record.

(7) Professional Counselors shall disguise identifying information derived from a client relationship when that information is used in training or research. Any data which cannot be disguised may be used only as expressly authorized by the client's informed consent.

(8) Professional Counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, and clearly indicate limitations that may affect the relationship as well as any other pertinent information. Professional Counselors must take reasonable steps to ensure that clients understand the implications of any diagnosis, the intended use of tests and reports, methods of treatment, and safety precautions that must be taken in their use, fees, and billing arrangements.

(9) Professional Counselors who have an administrative, supervisory, and/or evaluative relationship with individuals seeking counseling services shall not serve as the counselor and shall refer the individual to other professionals. Exceptions may be made only in instances where an individual's situation warrants counseling intervention and another alternative is not available. Dual relationships that might impair the counselor's

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objectivity and professional judgment must be avoided and/or the counseling relationship terminated through referral to a competent professional.

(10) When a Professional Counselor determines an inability to be of professional assistance to a potential or existing client, the counselor must, respectively, not initiate the counseling relationship or immediately terminate the relationship. In either event, the counselor must suggest appropriate alternatives and be knowledgeable about referral resources so that a satisfactory referral can be initiated. If the client declines the referral, the counselor shall not be obligated to continue the relationship.

(11) When engaging in intensive, short-term counseling, a Professional Counselor shall ensure that professional assistance is available at normal costs to clients during and following the short-term counseling.

(12) Professional Counselors who employ electronic means in which the counselor and client are not in immediate proximity must present clients with local sources of care before establishing a continued short or long-term relationship.

(13) Professional Counselors shall obtain legal authorization to practice in any jurisdiction in which they maintain an electronic presence via the internet or other electronic means.

(14) Professional Counselors shall ensure that clients are intellectually, emotionally, and physically compatible with computer applications used by the counselor and understand their purpose and operation.

(15) Professional Counselors shall maintain client confidentiality as provided by law.

(16) Professional Counselors shall screen prospective group counseling participants to ensure compatibility with group objectives.

(C) Measurement and Evaluation.

(1) Professional Counselors shall recognize the limits of their competence and perform only those assessment functions for which they have received appropriate training or supervision.

(2) Professional Counselors who utilize assessment instruments to assist them with diagnoses must have appropriate training and skills in educational and mental measurement, validation criteria, test research, and guidelines for test development and use.

(3) Professional Counselors shall provide instrument specific orientation or information to an examinee prior to and following the administration of assessment instruments or techniques so that the results may be placed in proper perspective with other relevant factors. The purpose of testing and the explicit use of the results must be disclosed to an examinee prior to testing.

(4) Professional Counselors shall carefully evaluate the specific theoretical bases and characteristics, validity, reliability, and appropriateness of an instrument in selecting the instrument or techniques for use in a given situation or with a particular client.

(5) Professional Counselors must provide accurate information and avoid false claims or misconceptions concerning the meaning of an instrument's reliability and validity terms when making statements to the public about assessment instruments or techniques.

(6) Professional Counselors shall follow the directions and researched procedures for selection, administration, and interpretation of all evaluation instruments and use them only within proper contexts.

(7) Professional Counselors shall be cautious when interpreting the results of instruments that possess insufficient technical data, and must explicitly state to examinees the specific limitations and purposes for the use of such instruments.

(8) Professional Counselors shall proceed cautiously when attempting to evaluate and interpret performance of any person who cannot be appropriately compared to the norms for the instruments.

(9) Professional Counselors shall maintain test security.

(10) Professional Counselors shall consider psychometric limitations when selecting and using an instrument, and must be cognizant of the limitations when interpreting the results.

(11) Professional Counselors shall ensure that appropriate interpretation accompanies any release of individual or group test data and shall obtain explicit prior understanding and consent when releasing results.

(12) Professional Counselors shall ensure that computer-generated test administration and scoring programs function properly thereby providing clients with accurate test results.

(13) Professional Counselors who develop computer-based test interpretations to support the assessment process shall ensure that the validity of the interpretations is established prior to the commercial distribution of the computer application.

(14) Professional Counselors shall recognize that test results may become obsolete and avoid the misuse of obsolete data.

(D) Research and Publication.

(1) Professional Counselors shall adhere to applicable legal and professional guidelines on research with human subjects.

(2) In planning research activities involving human subjects, Professional Counselors shall be aware of and responsive to all pertinent ethical principles and ensure that the research problem, design, and execution are in full compliance with any pertinent institutional or governmental regulations.

(3) The ultimate responsibility for ethical research lies with the principal researcher, although others involved in the research activities are ethically obligated and responsible for their own actions.

(4) Professional Counselors who conduct research with human subjects are responsible for the welfare of the subjects throughout the experiment and must take all reasonable precautions to avoid causing injurious psychological, physical, or social effects on their subjects.

(5) Professional Counselors who conduct research shall abide by the basic elements of informed consent:

(a) a fair explanation of the procedures to be followed, including an identification of those which are experimental; and

(b) a description of the attendant discomforts and risks; and

(c) a description of the benefits to be expected; and

(d) disclosure of appropriate alternative procedures that would be advantageous for subjects with an offer to answer any inquiries concerning the procedures; and

(e) an instruction that subjects are free to withdraw their consent and to discontinue participation in the project or activity at any time.

(6) When reporting research results, explicit mention shall be made of all the variables and conditions known to the investigator that may have affected the outcome of the study or the interpretation of the data.

(7) Professional Counselors who conduct and report research investigations shall do so in a manner that minimizes the possibility that the results will be misleading.

(8) Professional Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed to the research and/or publication, in accordance with such contributions.

(9) Professional Counselors shall communicate to other counselors the results of any research judged to be of professional value.

(E) Consulting.

(1) Professional Counselors, acting as consultants, must have a high degree of self awareness of their own values, knowledge, skills, limitations, and needs in entering a helping relationship that involves human and/or organizational change. The focus of the consulting relationship must be on the issues to be resolved and not on the persons presenting the problem.

(2) In the consulting relationship, the Professional Counselor and the client must understand and agree upon the problem definition, subsequent goals, and predicted consequences of interventions selected.

(3) Professional Counselors acting as consultants must be reasonably certain that they, or the organization represented, have the necessary competencies and resources for giving the kind of help that is needed or that may develop later, and that appropriate referral resources are available.

(4) Professional Counselors in a consulting relationship must encourage and cultivate client adaptability and growth toward self-direction. Professional Counselors must maintain this role consistently and not become a decision maker for clients or create a future dependency on the consultant.

(F) Private Practice.

(1) In advertising services as a private practitioner, Professional Counselors must advertise in a manner that accurately informs the public of the professional services, expertise, and techniques of counseling available.

(2) Professional Counselors who assume an executive leadership role in a private practice organization shall not permit their names to be used in professional notices during periods of time when they are not actively engaged in the private practice of counseling unless their executive roles are clearly stated.

(3) Professional Counselors shall make available their highest degree (described by discipline), type and level of certification, and/or license, address, telephone number, office hours, type and/or description of services,

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and other relevant information. Listed information must not contain false, inaccurate, misleading, partial, out-of-context, or otherwise deceptive material or statements.

(4) Professional Counselors who are involved in a partnership/corporation with other certified counselors and/or other professionals, must clearly specify all relevant specialties of each member of the partnership or corporation.

36-20. Code of Ethics for Marriage and Family Therapists.

(A) Responsibility to Clients.

(1) Marriage and Family Therapists shall not discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientation.

(2) Marriage and Family Therapists shall not exploit the trust and dependency of clients and shall avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Marriage and Family Therapists shall not engage in sexual relationships with clients and shall not engage in sexual relationships with former clients for at least two (2) years following the termination of therapy.

(3) Marriage and Family Therapists shall not use their professional relationships with clients to further their own interests.

(4) Marriage and Family Therapists shall respect the right of clients to make decisions and help them to understand the consequences of their decisions. Therapists shall clearly advise clients that a decision as to marital status is the responsibility of the client.

(5) Marriage and Family Therapists shall continue therapeutic relationships so long as is reasonably clear that clients are benefitting from the relationship.

(6) Marriage and Family Therapists shall assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

(7) Marriage and Family Therapists shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

(8) Marriage and Family Therapists shall obtain written informed consent from clients before videotaping, audio recording, or permitting third party observation.

(B) Confidentiality.

(1) Marriage and Family Therapists shall not disclose client confidences except as mandated by law or described in this chapter.

(2) Marriage and Family Therapists may use client and/or clinical materials in teaching, writing, and public presentations only if the client has executed a written waiver or when appropriate steps have been taken to protect the identity of the client.

(3) Marriage and Family Therapists shall store or dispose of all client records in a manner that will protect confidentiality.

(C) Professional Competence and Integrity.

(1) Marriage and Family Therapists shall immediately notify all appropriate agencies, including, but not limited to the Board, of any criminal conviction; of any conduct which may lead to a conviction; any actions disciplining or expelling them from any professional organization; suspension, revocation, or other discipline by any regulatory body; of incompetency due to physical or mental causes or the abuse of alcohol or other substances.

(2) Marriage and Family Therapists shall seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

(3) Marriage and Family Therapists who function as teachers, supervisors, or researchers shall maintain the highest standards of scholarship and present accurate information.

(4) Marriage and Family Therapists shall remain abreast of new developments in knowledge and practice through educational activities.

(5) Marriage and Family Therapists shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in investigations and ethical proceedings.

(6) Marriage and Family Therapists shall not diagnose, treat, or advise on problems outside the recognized boundaries of their competence, as established by the Board.

(7) Marriage and Family Therapists shall make every effort to prevent the distortion or misuse of their clinical and research findings.

(8) Marriage and Family Therapists shall exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

(D) Responsibility to Students, Employees, and Supervisees.

(1) Marriage and Family Therapists shall not exploit the trust and dependency of students, employees, and supervisees and shall avoid dual relationships that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. A Marriage and Family Therapist shall not provide therapy to an employee, student or supervisee. Sexual intimacy with students, or supervisees is prohibited.

(2) Marriage and Family Therapists shall not permit students, employees, or supervisees to perform or hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

(3) Marriage and Family Therapists shall not disclose supervisee confidences except as mandated by law and described in this chapter.

(E) Responsibility to Research Participants.

(1) Marriage and Family Therapists functioning as investigators shall make careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, Marriage and Family Therapists shall seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of the research participants.

(2) Marriage and Family Therapists functioning as investigators shall inform research participants of all aspects of the research that might reasonably be expected to influence willingness to participate. Marriage and Family Therapists shall be sensitive to the possibility of diminished consent when participants are receiving clinical services, have impairments which limit understanding and/or communication, or when participants are children.

(3) Marriage and Family Therapists functioning as investigators shall respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when Marriage and Family Therapists or other members of the research team are in positions of authority or influence over participants. Therapists shall make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.

(4) Marriage and Family Therapists shall maintain confidentiality during any investigation unless there is a waiver obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

(F) Responsibility to the Profession.

(1) Marriage and Family Therapists shall maintain the standards of the profession when acting as members or employees of organizations.

(2) Marriage and Family Therapists shall assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

(3) Marriage and Family Therapists who are the authors of books shall cite persons to whom credit for original ideas is due.

(4) Marriage and Family Therapists who are the authors of books or other materials published or distributed by an organization shall take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

(5) Marriage and Family Therapists should participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

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(6) Marriage and Family Therapists should be concerned with developing laws and regulations pertaining to the practice of marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

(7) Marriage and Family Therapists should encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

(G) Financial Arrangements.

(1) Marriage and Family Therapists shall not offer or accept payment for referrals.

(2) Marriage and Family Therapists shall not charge excessive fees for services and shall not barter therapy services.

(3) Marriage and Family Therapists shall disclose their fees to clients and supervisees at the initiation of services.

(4) Marriage and Family Therapists shall represent facts truthfully to clients, third party payors, and supervisees regarding the services rendered.

(H) Advertising.

(1) Marriage and Family Therapists shall accurately represent their competence, education, training, and experience relevant to their practice of marriage and family therapy.

(2) Marriage and Family Therapists shall assure that advertisements and publications in any media conveys information that is necessary for the public to make an appropriate selection of professional services.

(3) Marriage and Family Therapists shall not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and shall not hold themselves out as being partners or interns of a firm when they are not.

(4) Marriage and Family Therapists shall not use any professional identification if it includes any statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it:

(a) contains any material misrepresentation of fact; or

(b) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or

(c) is intended to or is likely to create an unjustified expectation.

(5) Marriage and Family Therapists shall correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

(6) Marriage and Family Therapists shall insure that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.

(7) Marriage and Family Therapists may represent themselves as specializing within a limited area of marriage and family therapy, but shall not advertise specialization in any area unless they have the education and supervised experience in settings which meet recognized professional standards to practice in that specialty area.

36-21. Code of Ethics for Psycho-educational Specialists.

(A) Professional Competency.

(1) Psycho-educational Specialists shall recognize the strengths and limitations of their training and experience and engage only in practices for which they are qualified.

(2) Psycho-educational Specialists shall represent competence levels, education, training, and experience accurately and in a professional manner.

(3) Psycho-educational Specialists shall not use affiliations with persons, associations, or institutions to imply a level of professional competence exceeding that actually achieved.

(4) Psycho-educational Specialists shall enlist the assistance of other specialists in supervisory, consultative, or referral roles as appropriate in providing services.

(5) Psycho-educational Specialists shall refrain from any activity in which their personal problems or conflicts may interfere with professional effectiveness. Competent assistance is sought to alleviate conflicts in professional relationships.

(B) Professional Relationships and Responsibilities.

(1) Psycho-educational Specialists shall apply their professional expertise for the purpose of promoting improvement in the quality of life for students, their families, and the school community.

(2) Psycho-educational Specialists shall respect all persons and must be sensitive to physical, mental, emotional, political, economic, social, cultural, ethnic, and racial characteristics, gender and sexual orientation, and religion.

(3) Psycho-educational Specialists shall be responsible for the direction and nature of their personal loyalties or objectives. When these commitments may influence a professional relationship, the Psycho-educational Specialist shall inform all concerned persons of relevant issues in advance.

(4) Psycho-educational Specialists shall maintain professional relationships with students, parents, the school, and community. Parents and students must be fully informed about all relevant aspects of services in advance, taking into account language and cultural differences, cognitive capabilities, developmental level, and age so that the explanation may be understood by the student, parent, or guardian.

(5) Psycho-educational Specialists shall attempt to resolve situations in which there are divided or conflicting interests in a manner which is mutually beneficial and protective of the rights of all parties involved.

(6) Psycho-educational Specialists shall not exploit clients through professional relationships nor condone these actions in their colleagues. All individuals, including students, clients, employees, colleagues, and research participants, shall not be exposed to deliberate comments, gestures, or physical contacts of a sexual nature. Psycho-educational Specialists shall not harass or demean others based on personal characteristics nor engage in sexual relationships with their students, supervisees, trainees, or past or present clients.

(7) Psycho-educational Specialists shall not enter into personal or business relationships with students/clients or their students'/clients' parents.

(8) Psycho-educational Specialists shall notify the Board if aware of a suspected detrimental or unethical practice of another professional.

(9) Psycho-educational Specialists shall respect the confidentiality of information obtained during their professional work and reveal this information only with the informed consent of the client, or the client's parent or legal guardian, except as provided by law.

(C) Students.

(1) Psycho-educational Specialists shall engage only in professional practices which maintain the dignity and integrity of students and other clients.

(2) Psycho-educational Specialists shall explain important aspects of their professional relationships with students and clients in a clear, understandable manner, including the reason why services were requested, who will receive information about the services provided, and the possible outcomes.

(3) When a child initiates services, Psycho-educational Specialists shall respect the right of the student or client to initiate, participate in, or discontinue services voluntarily. When another party initiates services, the Psycho-educational Specialists shall make every effort to secure voluntary participation of the child/student.

(4) Psycho-educational Specialists shall discuss recommendations, including all alternatives available.

(D) Parents, Legal Guardians, and Appointed Surrogates.

(1) Psycho-educational Specialists shall explain all services to parents in a clear, understandable manner, and explain options taking into account the values and capabilities of each parent. Provision of services by interns, practicum students, and other unlicensed personnel must be explained and agreed to in advance.

(2) Psycho-educational Specialists shall assure that there is direct parent contact prior to seeing the student/client on an on-going basis. Frank and prompt reporting to the parent of findings and progress shall be made so long as it conforms to the limits of confidentiality.

(3) Psycho-educational Specialists shall encourage and promote parental participation in designing services provided to their children, including when appropriate, linking interventions between the school and the home, tailoring parental involvement to the skills of the family, and helping parents to gain the skills needed to help their children.

(4) Psycho-educational Specialists shall respect the wishes of parents who object to services and attempt to guide parents to alternative community resources.

(5) Psycho-educational Specialists shall discuss recommendations and plans for assisting the student/client with the parent. The discussion must include alternatives associated with each set of plans, showing respect for the ethnic/cultural values of the family. The parents must be advised as to sources of help available at school and in the community.

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(6) Psycho-educational Specialists shall discuss the rights of parents and students regarding creation, modification, storage, and disposal of confidential materials.

(E) Service Delivery.

(1) Psycho-educational Specialists shall be knowledgeable of the organization, philosophy, goals, objections, and methodologies of the setting in which they are employed.

(2) Psycho-educational Specialists shall recognize that an understanding of the goals, processes, and legal requirements of their particular workplace is essential for effective functioning within that setting.

(3) Psycho-educational Specialists shall become integral members of the client systems to which they are assigned.

(4) Psycho-educational Specialists providing services to several different groups must disclose potential conflicts of interest to all parties.

(F) Community.

(1) Psycho-educational Specialists shall not engage in or condone practices that discriminate against clients based on race, handicap, age, gender, sexual orientation, religion, national origin, economic status, or native language.

(2) Psycho-educational Specialists shall avoid any action that could violate or diminish the civil or legal rights of clients.

(3) Psycho-educational Specialists shall adhere to federal, state, and local laws and ordinances governing their practice.

(G) Related Professional.

(1) Psycho-educational Specialists shall cooperate with other professional disciplines in relationships based on mutual respect.

(2) Psycho-educational Specialists shall encourage and support the use of all resources to best serve the interests of students and clients.

(3) Psycho-educational Specialists shall explain their field and their professional competencies, including roles, assignments, and working relationships to other professionals.

(4) Psycho-educational Specialists shall cooperate and coordinate with other professionals and agencies with the rights and needs of their clients in mind and must promote coordination of services.

(5) Psycho-educational Specialists shall refer a student or client to another professional for services whenever a condition is identified which is outside the professional's competencies or scope of practice.

(6) Psycho-educational Specialists shall ensure that all relevant and appropriate individuals, including the student/client when appropriate, are notified when transferring the intervention responsibility.

(H) Other Psycho-educational Specialists.

(1) Psycho-educational Specialists who employ, supervise, or train other professionals shall provide continuing professional development and must provide appropriate working conditions, fair and timely evaluations, and constructive consultation.

(2) Psycho-educational Specialists who supervise interns shall be responsible for all professional practices of the supervisee and assure the students/clients and the profession that the intern is adequately supervised.

(I) Advocacy.

(1) Psycho-educational Specialists shall be responsible to students/clients when acting as advocates for their rights and welfare.

(2) Psycho-educational Specialists shall communicate to the school administration and staff service options, taking into consideration the primary concern for protecting the rights and welfare of students.

(J) Assessment and Intervention.

(1) Psycho-educational Specialists shall maintain the highest standards for educational and psycho-educational assessment.

(2) In conducting psycho-educational, educational, or behavioral evaluations, or in providing therapy, counseling, or consultation services, Psycho-educational Specialists must give consideration to individual integrity and individual differences.

(3) Psycho-educational Specialists shall respect the differences in age, gender, sexual orientation, and socioeconomic, cultural and ethnic backgrounds and must select and use appropriate assessment or treatment procedures, techniques, and strategies.

(4) Psycho-educational Specialists must maintain knowledge about the validity and reliability of their instruments and techniques so as to choose those that have up-to-date standardization data and are applicable and appropriate for the benefit of the student/client.

(5) Psycho-educational Specialists shall not condone the use of psycho-educational assessment techniques, or the mis-use of the information these techniques provide, by unqualified persons in any way, including teaching, sponsorship, or supervision.

(6) Psycho-educational Specialists shall develop interventions which are appropriate to the presenting problems and are consistent with data collected and must modify or terminate the treatment plan when the data indicate the plan is not achieving the desired goals.

(K) Use of Materials and Technology.

(1) Psycho-educational Specialists shall maintain test security, preventing the release of underlying principles and specific content that would undermine the use of the device, and shall be responsible for the security requirements specific to each instrument used.

(2) Psycho-educational Specialists shall abide by all copyright laws and obtain permission from the authors before reproducing un-copyrighted published instruments.

(3) Psycho-educational Specialists shall obtain written prior consent or remove identifying data presented in public lectures or publications.

(4) When producing materials for consultation, intervention, teaching, public lectures, or publication, Psycho-educational Specialists shall acknowledge sources and assign credit to those whose ideas are reflected in the product.

(5) Psycho-educational Specialists shall not promote or encourage inappropriate use of computer generated test analyses or reports and must select scoring and interpretation services on the basis of accuracy and professional alignment with the underlying decision rules.

(6) Psycho-educational Specialists shall bear responsibility for any technological services used. All ethical and legal principles regarding confidentiality, privacy, and responsibility for decisions apply to the Psycho-educational Specialist and cannot be transferred to equipment, software companies, or data processing departments.

(7) Technological devices shall be used to improve the quality of client services.

(L) Research, Publication, and Presentation.

(1) Psycho-educational Specialists shall, when designing and implementing research in schools, employ research methodology, subject selection techniques, data gathering methods, and analysis and reporting techniques which are grounded in sound research practice.

(2) Psycho-educational Specialists working in agencies without review committees shall have peer review prior to initiating research.

(3) In publishing reports of their research, Psycho-educational Specialists shall provide discussion of limitations of their data and acknowledge existence of disconfirming data, as well as alternate hypotheses and explanations of their findings.

(M) Relationships with School Districts.

(1) Psycho-educational Specialists employed in both the public and private sector shall separate their roles and protect and completely inform the consumer of all potential conflicts of interest or concerns.

(2) Psycho-educational Specialists shall not accept any form of remuneration from clients who are entitled to the same service provided by the same Psycho-educational Specialists while working in the public sector. This prohibition includes students who attend the non-public schools within the public school assignment area.

(3) Psycho-educational Specialists in private practice shall inform parents of any free school psycho-educational services available from the public or private schools prior to delivering such services for remuneration.

(4) Psycho-educational Specialists shall conduct all private practice outside of the hours of contracted public employment.

(5) Psycho-educational Specialists engaged in private practice shall not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer, unless approved in advance through a written agreement.

(6) Psycho-educational Specialists shall not barter psycho-educational services.

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(N) Service Delivery.

(1) Psycho-educational Specialists shall conclude a financial agreement in advance of service delivery.

(2) Psycho-educational Specialists shall ensure to the best of their ability that the client clearly understands the financial agreement.

(3) Psycho-educational Specialists shall not give or receive any remuneration for referring clients for professional services.

(4) Psycho-educational Specialists in private practice shall adhere to the conditions of a contract until service thereunder has been performed, the contract has been terminated by mutual consent, or has otherwise been legally terminated.

(5) Psycho-educational Specialists shall not engage in personal diagnosis and therapy by means of public lectures, newspaper columns, magazine articles, radio or television programs, or mail.

(O) Announcements/Advertising.

(1) Psycho-educational Specialists shall present accurate representations of training, experience, services provided, and affiliations, and shall advertise these in a restrained manner.

(2) Listings in telephone directories shall be limited to name, highest relevant degree, state certification/licensure status as provided for by statute, address, telephone number, brief identification of major areas of practice, office hours, appropriate fee information, foreign languages spoken, policy regarding third party payments, and license number.

(3) Announcements of services by Psycho-educational Specialists in private practice shall be made in a formal, professional manner, using the guidelines for advertising in the telephone directory. In addition, clear statements of purposes with unequivocal descriptions of the experiences to be provided shall be given, along with education, training, and experience of all staff members appropriately specified.

(4) Psycho-educational Specialists in private practice shall not directly solicit clients for individual diagnosis or therapy.

(5) Psycho-educational Specialists shall not compensate in any manner a representative of the press, radio, or television in return for professional publicity in a news item.

36-22. Code of Ethics for All Supervisors.

In addition to following the profession's Code of Ethics, supervisors and candidates for supervisor's license shall:

1. Ensure that supervisees inform clients of their professional status and of all conditions of supervision. Supervisors need to ensure that supervisees inform their clients of any status other than being fully qualified for independent practice or licensed. For example, supervisees need to inform their clients if they are a student, intern, and trainee or, if licensed with restrictions, the nature of those restrictions. In addition, clients must be informed of the requirements of supervision (e.g., the audio taping of counseling sessions for purposes of supervision).

2. Ensure that clients have been informed of their rights to confidentiality and privileged communication when applicable. Clients also should be informed of the limits of confidentiality and privileged communication. The general limits of confidentiality are when harm to self or others is threatened; when the abuse of children, elders or disabled persons is suspected and in cases when the court compels the counselor to testify and break confidentiality. These are generally accepted limits to confidentiality and privileged communication, but they may be modified by state or federal statute.

3. Inform supervisees about the process of supervision, including supervision goals, case management procedures, and the supervisor's preferred supervision model(s).

4. Keep and secure supervision records and consider all information gained in supervision as confidential.

5. Avoid all dual relationships with supervisees that may interfere with the supervisor's professional judgment or exploit the supervisee. Refrain from supervision of current or former clients.

Although all dual relationships are not in of themselves inappropriate, any sexual relationship is considered to be a violation. Sexual relationship means sexual contact, sexual harassment, or sexual bias toward a supervisee by a supervisor.

6. Establish procedures with their supervisees for handling crisis situations.

7. Provide supervisees with adequate and timely feedback as part of an established evaluation plan, including completion of all Board required forms regarding supervision of supervisees.

8. Render assistance to any supervisee who is unable to provide adequate counseling services to clients.
9. Intervene in any situation where the supervisee is impaired and the client is at risk.
10. Refrain from endorsing an impaired supervisee when it is unlikely that the supervisee can provide adequate counseling services.
11. Refrain from offering supervision outside of the supervisor's area(s) of competence.
12. Ensure that supervisees are aware of the current ethical standards related to their professional practice, as approved by the Board, as well as legal standards that regulate their professional practice.
13. Engage supervisees in an examination of cultural issues that might affect supervision and/or counseling.
14. Ensure that both supervisees and clients are aware of their rights and of due process procedures.

ARTICLE 8

STANDARDS FOR SUPERVISION

36-23. Standards for Supervision.

A. Supervision of Clinical Contact

The process of supervision shall encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions or review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the supervisee's self-reports, micro-training, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

B. Acceptable Supervisor

1. Supervisees beginning their period of supervision shall be supervised by a supervisor authorized by this Board or a qualified licensed mental health practitioner approved by this Board.

2. A supervisor shall not be related to the supervisee in any of the following relationships: spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, present stepparent, or present stepchild.

C. Role of the Supervisor

1. The supervisor shall provide nurturance and support to the supervisee, explaining the relationship of theory to practice, suggesting specific actions, assisting the supervisee in exploring various models for practice, and challenging discrepancies in the supervisee's practice.

2. The supervisor shall ensure that the counseling clinical contact is completed in appropriate professional settings and with adequate administrative and clerical controls.

3. The supervisor shall ensure the supervisee's familiarity with important literature in the appropriate field of practice.

4. The supervisor shall model effective practice.

5. The supervisor shall supervise no more than eight supervisees for direct client contact hours in immediate supervision of individual or group supervision.

6. The supervisor shall provide written reports as required by the Board and shall be available for consultation with the Board or its committees regarding the supervisee's competence for licensure.

D. Supervision must occur in accordance with the following guidelines:

1. The Plan for Supervision shall be completed by each supervisor and submitted to the Board. Following the completion of supervision the Confirmation of Clinical Supervision form supported by a log of hours and any written confirmation that the Board may require to support the hours noted shall be completed and mailed to the Board.

2. The process of supervision shall be outlined in a contract for supervision written between the supervisor and supervisee. This contract must address supervision issues including, but not limited to, the following:

- a. clarification of whether supervision will be individual, group or both; and
- b. clarification of where, when and for what length of time supervision will occur and the consistency required; and
- c. any fee for the supervision including cancellation policy for supervisor and supervisee; and
- d. the availability of the supervisor in therapeutic emergencies and a clearly stated process for addressing suicidal or homicidal ideation or other high-risk situations; and

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- e. confidentiality issues and record keeping including the process for responding to subpoenas, requests for records or other client information and a clearly stated process for protecting client's confidentiality; and
 - f. knowledge of and commitment to abide by the code of ethics and applicable federal and state laws; and
 - g. boundary issues including but not limited to personal issues (i.e. dual relationships, gifts, self disclosure); and
 - h. release of information form for supervisor and the supervisee to exchange information with other supervisors of person supervised; and
 - i. clarification of the duties of the supervisor and the supervisee such as: caseload report; preparation for supervision; documentation of diagnosis, treatment plan and session notes; time of supervisory sessions to be spent listening or watching tapes and/or observing; homework assignments including familiarity with important literature in the field; appropriate professional settings with adequate administrative and clerical controls; and
 - j. the development of a learning plan addressing widely accepted treatment models and methodology; and
 - k. procedure and schedule to review performance including self-evaluation, client satisfaction surveys and feedback to the Supervisor and supervisee; and
 - l. procedure to review or amend contract and/or Plan for Supervision.
3. Acceptable modes for supervision of direct clinical contact are the following:
- a. Individual/triadic supervision: an acceptable supervisor conducts the supervisory session with no more than two supervisees present for a period of at least one-hour. It is suggested that contracts for individual/triadic supervision occur in specified blocks of time.
 - b. Group supervision: an acceptable supervisor with no more than four supervisees present for a period of at least one and one half-hours conducts the supervisory session. It is suggested that contracts for group supervision occur in specified blocks of time.
4. The Board generally considers none of the following as appropriate for supervision:
- a. any supervision conducted by a current or former family member or other person connected to the supervisee in such a way that would prevent or make difficult the establishment of a professional relationship.
 - b. peer supervision, consultation, or professional or staff development
 - c. administrative supervision
 - d. any process that is primarily didactic or involves teaching or training in a workshop, seminar or classroom format, including continuing education
 - e. supervision of more than eight supervisees at any given time.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will revise and update licensing requirements, decrease the number of intern practicum hours, revise the allocation of supervised clinical experience hours, allow a portion of the required supervision to be obtained online, revise the continuing education requirements, and update the Code of Ethics.

Document No. 4794
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF ELEVATORS AND AMUSEMENT RIDES
CHAPTER 71
Statutory Authority: 1976 Code Section 41-18-120

71-4700. Fee Schedule.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Office of Elevators and Amusement Rides, proposes to amend its regulations relating to fee schedules for amusement ride inspections.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

71-4700. Fee Schedule.

1.A. Upon application for a permit with a request for inspection by the South Carolina Department of Labor, Licensing and Regulation, Division of Labor, an annual fee shall be charged at the rate of:

Kiddie device	\$50.00
Major/spectacular devices	\$100.00
Mobile/fixed roller coasters	\$250.00

B. Fees under 71-4700 include one permit inspection. Any return inspection resulting from the owner's failure to comply, will be charged at a rate of \$75 per hour in addition to the annual fee, including travel time.

2. Any application for annual permit which is accompanied by an inspection report by an approved special inspector shall be charged an annual permit fee at the rate of \$50.00 for each device covered by that permit application.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will increase fees for inspection of amusement rides to cover the costs associated with the program.

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Document No. 4793
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF ELEVATORS AND AMUSEMENT RIDES
CHAPTER 71

Statutory Authority: 1976 Code Section 41-16-140

71-5600. Fee Schedules.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Office of Elevators and Amusement Rides, proposes to amend its regulations relating to fee schedules for elevator inspections.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

71-5600. Fee Schedules.

1. Construction Permits

A. The fee for a construction permit shall include the fee for registration and the first annual operating certificate of a facility.

Contract Price/Per Facility	Fee
\$1 - \$ 10,000	\$250.00
\$ 10,001 - \$ 30,000	\$295.00
\$ 30,001 - \$ 50,000	\$345.00
\$ 50,001 - \$ 80,000	\$390.00
\$ 80,001 - \$ 100,000	\$410.00
\$100,001 - \$200,000	\$460.00
\$200,001 – and up	\$510.00

B. Fees under 71-5600 include one turn-over inspection. Any return turn-over inspection, for failing to comply, will be charged at a rate of \$75.00 per hour including travel time.

C. A fee of \$250.00 will be charged upon issuance of a temporary certificate, good for a period of no more than sixty (60) days. At the end of sixty (60) days the owner may a) apply for a renewal of a temporary certificate with a fee of \$250.00; b) have the elevator ready for a complete turnover inspection; or c) remove the elevator from service.

2. Operating Certificate:

A.(1) The fee for an annual operating certificate, after registration, whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

Number of Floors	Fee
2 to 5.....	\$125.00
6 to 12.....	\$150.00
13 and above.....	\$175.00

(2) The fee for an operating certificate, after registration whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

Type of Elevator	Fee
Handicap lifts.....	\$75.00 every five years
Manlifts	\$200.00 every seven years
Television tower	\$300.00 every seven years

Special Purpose Personnel Elevators:

2-5 floors	\$125.00 every seven years
6-12 floors	\$150.00 every seven years
13 and above floors	\$175.00 every seven years

B. The fee for an annual operating certificate, after registration, whether initial or renewal, upon report of a special inspection shall be \$50.00 per facility.

C. The fee for a reinspection due to failure to make timely corrections of all deficiencies noted in an annual inspection report will be \$75.00 per hour of inspection time, including travel time.

3. License for Special Inspector:

A. The fee for an annual license as a special inspector shall be \$200.00.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will increase fees for inspection of elevators to cover the costs associated with the program.

Document No. 4769
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF REGISTRATION FOR FORESTERS
 CHAPTER 53

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 48-27-140 and 48-27-190

53-16. Licensure Fees.

Synopsis:

The South Carolina Board of Registration for Foresters proposes to amend its regulations to delete the fees as they have been moved into Chapter 10, the chapter containing the Department of Labor, Licensing and Regulation’s boards’ and commissions’ fee schedules.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

Repeal regulation as shown below.

Text:

53-16. Repealed.

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Fiscal Impact Statement:

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

Statement of Rationale:

These regulations delete the fee schedule appearing in the Board's regulation as it has been moved to Chapter 10 of the Code of Regulations. Deleting the provisions will remove unnecessary and duplicative language.

Document No. 4770
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF IMMIGRANT WORKER COMPLIANCE
CHAPTER 71

Statutory Authority: 1976 Code Section 40-83-30

71-10002. Audit Program.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Office of Immigrant Worker Compliance, proposes to amend its regulations to repeal sections A through D of the regulation describing the audit program to conform to statutory changes.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

71-10002. Audit Program.

At the time of an inspection, the employer must provide access to:

1. original or photocopied records of employment verification; or
2. access to electronic storage of records of employment verification, including associated audit trails that show who has accessed a computer system and the actions performed within or on the computer system during a given period of time.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will repeal sections A through D of the regulation describing an audit program to conform to statutory changes.

Document No. 4798
DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
 CHAPTER 79

Statutory Authority: 1976 Code Sections 40-1-75 and 40-29-95(8)

79-6. License Renewal.

Synopsis:

The South Carolina Manufactured Housing Board proposes to amend its regulations to require continuing education prior to renewal of licenses.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

79-6. License Renewal.

(A) Penalty for failure on the part of the applicant to file a renewal application shall be as follows:

(1) A late fee will be assessed for applications received after the end of the renewal period.

(2) If a licensee fails to renew within six months the applicant/authorized official is required to qualify as a new applicant.

(B) Continuation in business without proper license will be deemed a violation of the Act.

(C) All license renewals must be accompanied by a current criminal background check, and verification that the applicant has obtained the required continuing education with the exception of manufacturers.

(D) Continuing Education

(1) To qualify for registration renewal, a registrant must accumulate a minimum of three (3) hours of continuing education per year. One (1) hour of continuing education shall be awarded for each hour of active participation in continuing education approved by the Board.

(a) Providers shall provide a course outline for review by the Board before approval. Approval of a course shall be valid for two years, after which the course must be resubmitted to the Board.

(2) Continuing education classes must concern South Carolina or federal laws, regulations and judicial decisions that affect the sale, installation or repair of manufactured homes.

(3) If the first period of registration is less than twenty-four (24) months, continuing education required for the first registration renewal must be based on the following:

(a) For registrations issued twelve (12) or less months before expiration, no hours.

(b) For registrations issued more than twelve (12) months before expiration, three (3) hours.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will require continuing education prior to renewal.

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Document No. 4779
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
CHAPTER 91
Statutory Authority: 1976 Code Section 40-33-10

91-2. Nurse Licensure Compact.

Synopsis:

The South Carolina Board of Nursing proposes to amend its regulations to repeal the provision related to the prior version of the Nurse Licensure Compact.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

Repeal regulation as shown below.

Text:

91-2. Repealed.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will ensure consistency in application of the multistate licensure law by repealing existing non-conforming regulations.

Document No. 4802
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71
Statutory Authority: 1976 Code Section 41-15-220 and 29 U.S.C. 667(C)(7)

Chapter 71, Article 1, Subarticle 3. Recording and Reporting Occupational Injuries and Illnesses.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, proposes to amend Regulation 71, Article I, Subarticle 3 to reflect changes since its promulgation.

A Notice of Drafting was published in the *State Register* on October 27, 2017.

Instructions:

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

Text:

SUBARTICLE 3

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

*Subpart A
Purpose*

71-300. Purpose.

The purpose of this rule (Subarticle 3) is to require employers to record and report work-related fatalities, injuries and illnesses.

Note to 71-300: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers compensation or other benefits.

(Cross Reference: 1904.0)

*Subpart B
Scope*

NOTE

Note to Subpart B: All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by these Subarticle 3 regulations. However, most employers do not have to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

71-301. Partial exemption for employers with 10 or fewer employees.

(a) Basic requirement

(1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under 71-342. However, as required by 71-339, all employers covered by the OSH Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of one or more employees.

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under 71-302.

(b) Implementation.

(1) Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment? The partial exemption for size is based on the number of employees in the entire company.

(2) How do I determine the size of my company to find out if I qualify for the partial exemption for size? To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than ten (10) employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

(3) Does the partial exemption for size apply to public sector [State of South Carolina and any political subdivision thereof]? No, the above exemption of not more than ten (10) employees does not apply to employers in the public sector.

(Cross Reference: 1904.1)

71-302. Partial exemptions for establishments in certain industries.

(a) Basic requirement.

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(1) If your business establishment is classified in a specific industry group listed in appendix A to this Subpart B, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under Sections 71-341 or 71-342. However, all employers must report to OSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see Sec.71-339).

(2) If one or more of your company's establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under 71-301.

(b) Implementation:

(1) Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(2) How do I determine the correct NAICS code for my company or for individual establishments? You can determine your NAICS code by using one of three methods, or you may contact your nearest OSHA office or State agency for help in determining your NAICS code:

(i) You can use the search feature at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>.

(3) Does the partial industry classification exemption apply to public sector [State of South Carolina and any political subdivision thereof]? No, the above exemption applies only to establishments in the private sector. The exemption does not apply to the State of South Carolina or any political subdivisions thereof. (Cross Reference: 1904.2)

71-303. Keeping records for more than one agency.

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's Subarticle 3 recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this Subarticle 3 requires you to record. You may contact your nearest OSHA office or State agency for help in determining whether your records meet OSHA's requirements.

Non-Mandatory Appendix A to Subpart B – Partially Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification Systems (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see Sec. 71-339). (Cross Reference 1904.3)

NAICS Code	Industry
4412	Other Motor Vehicle Dealers.
4431	Electronics and Appliance Stores.
4461	Health and Personal Care Stores.
4471	Gasoline Stations.
4481	Clothing Stores.
4482	Shoe Stores.
4483	Jewelry, Luggage, and Leather Goods Stores.
4511	Sporting Goods, Hobby, and Musical Instrument Stores.
4512	Book, Periodical, and Music Stores.
4531	Florists.
4532	Office Supplies, Stationery, and Gift Stores.
4812	Nonscheduled Air Transportation.
4861	Pipeline Transportation of Crude Oil.
4862	Pipeline Transportation of Natural Gas.
4869	Other Pipeline Transportation.
4879	Scenic and Sightseeing Transportation, Other.
4885	Freight Transportation Arrangement.
5111	Newspaper, Periodical, Book, and Directory Publishers.
5112	Software Publishers.
5121	Motion Picture and Video Industries.
5122	Sound Recording Industries.
5151	Radio and Television Broadcasting.
5172	Wireless Telecommunications Carriers (except Satellite).
5173	Telecommunications Resellers.
5179	Other Telecommunications.
5181	Internet Service Providers and Web Search Portals.
5182	Data Processing, Hosting, and Related Services.
5191	Other Information Services.
5211	Monetary Authorities-Central Bank.
5221	Depository Credit Intermediation.
5222	Nondepository Credit Intermediation.
5223	Activities Related to Credit Intermediation.
5231	Securities and Commodity Contracts Intermediation and Brokerage.
5232	Securities and Commodity Exchanges.
5239	Other Financial Investment Activities.
5241	Insurance Carriers.
5242	Agencies, Brokerages, and Other Insurance Related Activities.
5251	Insurance and Employee Benefit Funds.
5259	Other Investment Pools and Funds.
5312	Offices of Real Estate Agents and Brokers.
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
5411	Legal Services.
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413	Architectural, Engineering, and Related Services.
5414	Specialized Design Services.
5415	Computer Systems Design and Related Services.
5416	Management, Scientific, and Technical Consulting Services.
5417	Scientific Research and Development Services.
5418	Advertising and Related Services.
5511	Management of Companies and Enterprises.
5611	Office Administrative Services.

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5614	Business Support Services.
5615	Travel Arrangement and Reservation Services.
5616	Investigation and Security Services.
6111	Elementary and Secondary Schools.
6112	Junior Colleges.
6113	Colleges, Universities, and Professional Schools.
6114	Business Schools and Computer and Management Training.
6115	Technical and Trade Schools.
6116	Other Schools and Instruction.
6117	Educational Support Services.
6211	Offices of Physicians.
6212	Offices of Dentists.
6213	Offices of Other Health Practitioners.
6214	Outpatient Care Centers.
6215	Medical and Diagnostic Laboratories.
6244	Child Day Care Services.
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115	Independent Artists, Writers, and Performers.
7213	Rooming and Boarding Houses.
7221	Full-Service Restaurants.
7222	Limited-Service Eating Places.
7224	Drinking Places (Alcoholic Beverages).
8112	Electronic and Precision Equipment Repair and Maintenance.
8114	Personal and Household Goods Repair and Maintenance.
8121	Personal Care Services.
8122	Death Care Services.
8131	Religious Organizations.
8132	Grantmaking and Giving Services.
8133	Social Advocacy Organizations.
8134	Civic and Social Organizations.
8139	Business, Professional, Labor, Political, and Similar Organizations.

(Cross Reference: 1904.2)

Subpart C Recording Criteria

NOTE

Note to Subpart C: This Subpart describes the work-related injuries and illnesses that an employer must enter into the OSHA records and explains the OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.

71-304. Recording criteria.

(a) Basic requirement. Each employer required by this Part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

- (1) Is work-related; and
- (2) Is a new case; and

(3) Meets one or more of the general recording criteria of 71-307 or the application to specific cases of 71-308 through 71-312.

(b) Implementation.

(1) What sections of this rule describe recording criteria for recording work-related injuries and illnesses? The table below indicates which sections of the rule address each topic.

(i) Determination of work-relatedness. See 71-305.

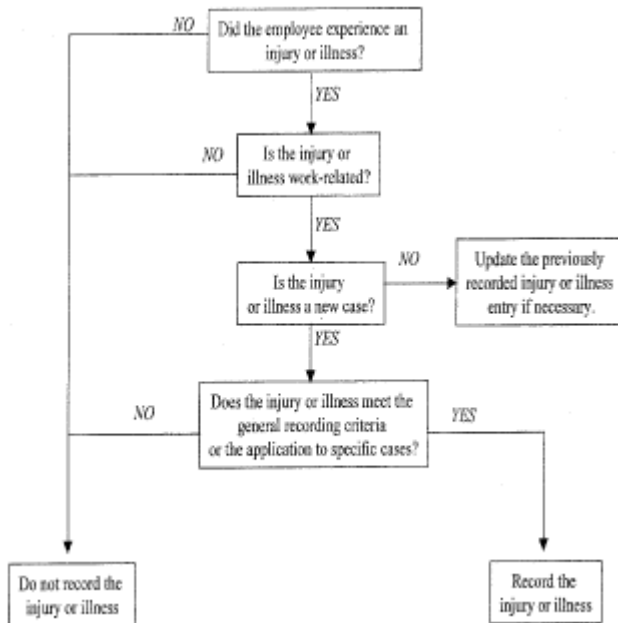
(ii) Determination of a new case. See 71-306.

(iii) General recording criteria. See 71-307.

(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases). See 71-308 through 71-312.

(2) How do I decide whether a particular injury or illness is recordable? The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.

(Cross Reference 1904.4)



71-305. Determination of work-relatedness.

(a) Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in 71-305(b)(2) specifically applies.

(b) Implementation.

(1) What is the “work environment”? OSHA defines the work environment as “the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical location, but also the equipment or materials used by the employee during the course of his or her work.”

(2) Are there situations where an injury or illness occurs in the work environment and is not considered work-related? Yes, an injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and therefore is not recordable.

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71-305(b)(2)	You are not required to record injuries and illnesses if ...
(i)	At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
(ii)	The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
(iii)	The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
(iv)	The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related.
	NOTE: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
(v)	The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.
(vi)	The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted.
(vii)	The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
(viii)	The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).
(ix)	The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(3) How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work? In these situations, you must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

(4) How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness? A preexisting injury or illness has been significantly aggravated, for purposes of OSHA injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

(i) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(ii) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(iii) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(iv) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) Which injuries and illness are considered pre-existing conditions? An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

(6) How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs? Injuries or illnesses that occur while an employee is on travel status are

work-related if, at the time of the injury or illness, the employee was engaged in work activities “in the interest of the employer.” Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below.

71-305(b)(6)	If the employee has...	You may use the following to determine if an injury or illness is work-related
(i)	Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel or into a other temporary residence, or he or she establishes a “home away from home.” You must evaluate the employee’s activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a “home away from home” and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
(ii)	taken a detour for personal reasons.	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).

(7) How do I decide if a case is work-related when the employee is working at home? Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee’s fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.
(Cross Reference 1904.5)

71-306. Determination of new cases.

(a) Basic requirement. You must consider an injury or illness to be a “new case” if:

- (1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or
- (2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(b) Implementation.

(1) When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case? No, for occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis and silicosis.

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(2) When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case? Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case? You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.
(Cross Reference 1904.6)

71-307. General recording criteria.

(a) Basic requirement. You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation.

(1) How do I decide if a case meets one or more of the general recording criteria? A work-related injury or illness must be recorded if it results in one or more of the following:

(i) Death. See 71-307(b)(2).

(ii) Days away from work. See 71-307(b)(3).

(iii) Restricted work or transfer to another job. See 71-307(b)(4).

(iv) Medical treatment beyond first aid. See 71-307(b)(5).

(v) Loss of consciousness. See 71-307(b)(6).

(vi) A significant injury or illness diagnosed by a physician or other licensed health care professional.

See 71-307(b)(7).

(2) How do I record a work-related injury or illness that results in the employee's death? You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OSHA within eight (8) hours, as required by 71-339.

(3) How do I record a work-related injury or illness that results in days away from work? When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(i) Do I count the day on which the injury occurred or the illness began? No, you begin counting days away on the day after the injury occurred or the illness began.

(ii) How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway? You must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(iii) How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway? In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(iv) How do I count weekends, holidays, or other days the employee would not have worked anyway? You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of work-related injury or illness.

(v) How do I record a case in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend? You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vi) How do I record a case in which a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation or a temporary plant closing? You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vii) Is there a limit to the number of days away from work I must count? Yes, you may “cap” the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.

(viii) May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company? Yes, if the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(ix) If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years? No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(4) How do I record a work-related injury or illness that results in restricted work or job transfer? When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted work days column.

(i) How do I decide if the injury or illness resulted in restricted work? Restricted work occurs when, as the result of a work-related injury or illness:

(A) You keep the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(B) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(ii) What is meant by “routine functions”? For recordkeeping purposes, an employee’s routine functions are those work activities the employee regularly performs at least once per week.

(iii) Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began? No, you do not have to record restricted work or job transfers if you, or the

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physician or other licensed health care professional, impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(iv) If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a “restricted work” case? No, a recommended work restriction is recordable only if it affects one or more of the employee’s routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee’s job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee’s work has been restricted and you must record the case.

(v) How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness? A partial day of work is recorded as a day of job transfer, or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(vi) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case? No, the case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(vii) How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in “light duty” or “take it easy for a week”? If you are not clear about the physician or other licensed health care professional’s recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is “Yes,” then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is “No,” the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional that recommended the restriction, record the injury or illness as a case involving restricted work.

(viii) What do I do if a physician or other licensed health care professional recommends a job restriction meeting OSHA’s definition, but the employee does all of his or her routine job functions anyway? You must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(ix) How do I decide if an injury or illness involved a transfer to another job? If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job.

Note: This does not include the day on which the injury or illness occurred.

(x) Are transfers to another job recorded in the same way as restricted work cases? Yes, both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(xi) How do I count days of job transfer or restriction? You count days of job transfer or restriction in the same way you count days away from work, using 71-307(b)(3)(i) to (viii), above. The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases.

(5) How do I record an injury or illness that involves medical treatment beyond first aid? If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work,

or one or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

(i) What is the definition of medical treatment? “Medical treatment” means the management and care of a patient to combat disease or disorder. For the purposes of Subarticle 3, medical treatment does not include:

(A) Visits to a physician or other licensed health care professional solely for observation or counseling;

(B) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(C) “First aid” as defined in paragraph (b)(5)(ii) of this section.

(ii) What is “first aid”? For the purposes of Subarticle 3, “first aid” means the following:

(A) Using a non-prescription medication at nonprescription strength (for medications available in prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(B) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(C) Cleaning, flushing or soaking wounds on the surface of the skin;

(D) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);

(E) Using hot or cold therapy;

(F) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

(G) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);

(H) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(I) Using eye patches;

(J) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(K) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(L) Using finger guards;

(M) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

(N) Drinking fluids for relief of heat stress.

(iii) Are any other procedures included in first aid? No, this is a complete list of all treatments considered first aid for Subarticle 3 purposes.

(iv) Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment? No, OSHA considers the treatment listed in 71-307(b)(5)(ii) of this Part to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of Subarticle 3. Similarly, OSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(v) What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation? If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional’s recommendation.

(6) Is every work-related injury or illness case involving a loss of consciousness recordable? Yes, you must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

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(7) What is a “significant” diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness? Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.

Note to 71-307: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in 71-307(a): death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

(Cross Reference 1904.7)

71-308. Recording criteria for needlestick and sharps injuries.

(a) Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person’s blood or other potentially infectious material (as defined by 29 CFR 1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee’s privacy, you may not enter the employee’s name on the OSHA 300 Log (see the requirements for privacy cases in paragraphs, 71-329(b)(6) through 71-329(b)(9)).

(b) Implementation.

(1) What does “other potentially infectious material” mean? The term “other potentially infectious materials” is defined in the OSHA Bloodborne Pathogens standard at 1910.1030(b). These materials include:

(i) Human bodily fluids, tissues and organs, and

(ii) Other materials infected with the HIV or hepatitis B (HBV) virus such as laboratory cultures or tissues from experimental animals.

(2) Does this mean that I must record all cuts, lacerations, punctures, and scratches? No, you need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person’s blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in 71-307.

(3) If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 Log? Yes, you must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident? You need to record such an incident on the OSHA 300 Log as an illness if:

(i) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(ii) It meets one or more of the recording criteria in 71-307.

(Cross Reference: 1904.8)

71-309. Recording criteria for cases involving medical removal under OSHA standards.

(a) Basic requirement. If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case on the OSHA 300 Log.

(b) Implementation.

(1) How do I classify medical removal cases on the OSHA 300 Log? You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal

is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the “poisoning” column.

(2) Do all of OSHA’s standards have medical removal provisions? No, some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in an OSHA standard is met? No, if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard, you do not need to record the case on the OSHA 300 Log.

(Cross Reference 1904.9)

71-310. Recording criteria for cases involving occupational hearing loss.

(a) Basic requirement.

If an employee’s hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee’s total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

(b) Implementation.

(1) What is a Standard Threshold Shift? A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears.

(2) How do I evaluate the current audiogram to determine whether an employee has an STS and a 25-dB hearing level?

(i) STS. If the employee has never previously experienced a recordable hearing loss, you must compare the employee’s current audiogram with that employee’s baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee’s current audiogram with the employee’s revised baseline audiogram (the audiogram reflecting the employee’s previous recordable hearing loss case).

(ii) 25-dB loss. Audiometric test results reflect the employee’s overall hearing ability in comparison to audiometric zero. Therefore, using the employee/s current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee’s total hearing level is 25 dB or more.

(3) May I adjust the current audiogram to reflect the effects of aging on hearing? Yes. When you are determining whether an STS has occurred, you may age adjust the employee’s current audiogram results by using Tables F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95. You may not use an age adjustment when determining whether the employee’s total hearing level is 25 dB or more above audiometric zero.

(4) Do I have to record the hearing loss if I am going to retest the employee’s hearing? No, if you retest the employee’s hearing within 30 days of the first test, and the first test does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the test confirms the recordable STS, you must record the hearing loss illness within seven (7) calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the 1910.95 noise standard indicate that an STS is not persistent, you may erase or line-out the recorded entry.

(5) Are there any special rules for determining whether a hearing loss case is work-related? No. You must use the rules in 71-305 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work related.

(6) If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case? If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

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(7) How do I complete the 300 Log for a hearing loss case? When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the column for hearing loss. (Note: S.C. Code of Regulations Section 71-310(b)(7) is effective beginning January 1, 2004.)

(Cross Reference: 1904.10)

71-311. Recording criteria for work-related tuberculosis cases.

(a) Basic requirement. If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the “respiratory condition” column.

(b) Implementation.

(1) Do I have to record, on the Log, a positive TB skin test result obtained at a pre-employment physical? No, you do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(2) May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure? Yes, you may line-out or erase the case from the Log under the following circumstances:

(i) The worker is living in a household with a person who has been diagnosed with active TB;

(ii) The Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(iii) A medical investigation shows that the employee’s infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(Cross Reference: 1904.11)

71-329. Forms.

(a) Basic requirement. You must use OSHA 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) Implementation.

(1) What do I need to do to complete the OSHA 300 Log? You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness and summarize this information on the OSHA 300-A at the end of the year.

(2) What do I need to do to complete the OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(3) How quickly must each injury or illness be recorded? You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven [7] calendar days of receiving information that a recordable injury or illness has occurred.

(4) What is an equivalent form? An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.

(5) May I keep my records on a computer? Yes, if the computer can produce equivalent forms when they are needed, as described under 71-335 and 71-340; you may keep your records using the computer system.

(6) Are there situations where I do not put the employee’s name on the forms for privacy reasons? Yes, if you have a “privacy concern case,” you may not enter the employee’s name on the OSHA 300 Log. Instead, enter “privacy case” in the space normally used for the employee’s name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under 71-335(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) How do I determine if an injury or illness is a privacy concern case? You must consider the following injuries or illnesses to be privacy concern cases:

(i) An injury or illness to an intimate body part or the reproductive system;

- (ii) An injury or illness resulting from a sexual assault;
- (iii) Mental illness;
- (iv) HIV infection, hepatitis, or tuberculosis;
- (v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see 71-308 for definitions); and
- (vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

(8) May I classify any other types of injuries and illnesses as privacy concern cases? No, this is a complete list of all injuries and illnesses considered privacy concern cases for Subarticle 3 purposes.

(9) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do further protect the employee's privacy? Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) What must I do to protect employee privacy if I wish to provide access to the OSHA Forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives? If you decide to voluntarily disclose the Forms to persons other than government representatives, employees, former employees or authorized representatives (as required by 71-335 and 71-340), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the Forms with personally identifying information only:

- (i) to an auditor or consultant hired by the employer to evaluate the safety and health program;
- (ii) to the extent necessary for processing a claim for workers' compensation or other insurance benefits;

or

(iii) to a public health authority or law enforcement agency for uses and disclosures for which consent, and authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(Cross Reference: 1904.29)

Subpart D

Other OSHA Injury and Illness Recordkeeping Requirements

71-330. Multiple business establishments.

(a) Basic requirement. You must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

(b) Implementation.

(1) Do I need to keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)? Yes, however, you do not have to keep a separate OSHA 300 Log for each such establishment. You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(2) May I keep the records for all of my establishments at my headquarters location or at some other central location? Yes, you may keep the records for an establishment at your headquarters or other central location if you can:

(i) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and

(ii) Produce and send the records from the central location to the establishment within the time frames required by 71-335 and 71-340 when you are required to provide records to a government representative, employees, former employees or employee representatives.

(3) Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees? You must link each of your employees with one of your

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establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment or on an OSHA 300 Log that covers that employee's short-term establishment.

(4) How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments? If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(Cross Reference 1904.30)

71-331. Covered employees.

(a) Basic requirement. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(b) Implementation.

(1) If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness? No, self-employed individuals are not covered by the OSHA Act or this regulation.

(2) If I obtain employees from a temporary help service, employee leasing service, or personnel supply service; do I have to record an injury or illness occurring to one of those employees? You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.

(3) If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee? If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(4) Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased or contract employees that I supervise on a day-to-day basis? No, you and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once; either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employ Section 1926.20

(a) Contractor Requirements. 1) No contractor or subcontractor for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety.

(Cross Reference 1904.31)

71-332. Annual summary.

(a) Basic requirement. At the end of each calendar year, you must:

(1) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;

(3) Certify the summary; and

(4) Post the annual summary.

(b) Implementation.

(1) How extensively do I have to review the OSHA 300 Log entries at the end of the year? You must review the entries as extensively as necessary to make sure that they are complete and correct.

(2) How do I complete the annual summary? You must:

(i) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(ii) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(iii) If you are using an equivalent form other than the OSHA 300-A summary form, as permitted under 71-306(b)(4), the summary you use must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.

(3) How do I certify the annual summary? A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded that the annual summary is correct and complete.

(4) Who is considered a company executive? The company executive who certifies the log must be one of the following persons:

- (i) An owner of the company (only if the company is a sole proprietorship or partnership);
- (ii) An officer of the corporation;
- (iii) The highest ranking company official working at the establishment; or
- (iv) The immediate supervisor of the highest ranking company official working at the establishment;

(5) How do I post the annual summary? You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) When do I have to post the annual summary? You must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

(Cross Reference 1904.32)

71-333. Retention and updating.

(a) Basic requirement. You must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five (5) years following the end of the calendar year that these records cover.

(b) Implementation.

(1) Do I have to update OSHA 300 Log during the five-year storage period? Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

(2) Do I have to update the annual summary? No, you are not required to update the annual summary, but you may do so if you wish.

(3) Do I have to update the OSHA 301 Incident Reports? No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish.

(Cross Reference 1904.33)

71-334. Change in business ownership.

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which owned the establishment. You must transfer the Subarticle 3 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by 71-333 of this Part, but need not update or correct the records of the prior owner.

(Cross Reference 1904.34).

71-335. Employee involvement.

(a) Basic requirement. Your employees and their representatives must be involved in the recordkeeping system in several ways.

(1) You must inform each employee of how he or she is to report a work-related injury or illness to you.

(2) You must provide employees with the information described in paragraph (b)(1)(iii) of this section.

(3) You must provide access to your injury and illness records for your employees and their representatives as described in paragraph (b)(2) of this section.

(b) Implementation.

(1) What must I do to make sure that employees report work-related injuries and illnesses to me?

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(i) You must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;

(ii) You must inform each employee of your procedure for reporting work-related injuries and illnesses;

(iii) You must inform each employee that:

(A) Employees have the right to report work-related injuries and illnesses; and

(B) Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses; and

(iv) You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.

(2) Do I have to give my employees and their representatives access to the OSHA injury and illness records? Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

(i) Who is an authorized employee representative? An authorized employee representative is an authorized collective bargaining agent of employees.

(ii) Who is a “personal representative” of an employee or former employee? A personal representative is:

(A) Any person that the employee or former employee designates as such, in writing; or

(B) The legal representative of a deceased or legally incapacitated employee or former employee.

(iii) If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies for your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(iv) May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative? No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee’s name on the OSHA 300 Log for certain “privacy concern cases,” as specified in paragraphs 71-329(b)(6) through 71-329(b)(9).

(v) If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?

(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled “Tell us about the case.” You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative.

(vi) May I charge for the copies? No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(Cross Reference 1904.35)

71-336. Prohibition against discrimination.

In addition to Section 71-335, section 11(c) of the OSH Act also prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness. That provision of the Act also protects the

employee who files a safety and health complaint, asks for access to the Subarticle 3 records, or otherwise exercises any rights afforded by the OSH Act.

(Cross Reference: 1904.36)

71-337. State recordkeeping regulations.

(a) *Basic requirement.* Some States operate their own OSHA programs, under the authority of a State plan as approved by OSHA. States operating OSHA-approved State plans must have occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in this part (see 29 CFR 1902.3(j), 29 CFR 1902.7, and 29 CFR 1956.10(i)).

(b) *Implementation.*

(1) State-Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded.

(2) For other Subarticle 3 provisions (for example, industry exemptions, reporting of fatalities and hospitalizations, record retention, or employee involvement), State-Plan State requirements may be more stringent than or supplemental to the Federal requirements, but because of the unique nature of the national recordkeeping program, States must consult with and obtain approval of any such requirements.

(3) Although State and local government employees are not covered Federally, all State-Plan States must provide coverage, and must develop injury and illness statistics, for these workers. State Plan recording and reporting requirements for State and local government entities may differ from those for the private sector but must meet the requirements of paragraphs 71-337(b)(1) and (b)(2).

(4) A State Plan State may not issue a variance to a private sector employer and must recognize all variances issued by Federal OSHA.

(5) A State Plan State may only grant an injury and illness recording and reporting variance to a state or local government employer within the State after obtaining approval to grant the variance from Federal OSHA.

Subpart E

Reporting Fatality, Injury and Illness Information to the Government

71-339. Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to OSHA.

(a) *Basic requirement.*

(1) Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the South Carolina Occupational Safety and Health Administration (SC OSHA), Division of the South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina, 29211.

(2) Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

(3) You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:

(i) By telephone (1-803-896-7672) or in person to the South Carolina OSHA Office.

(ii) By telephone to the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) *Implementation.*

(1) If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on OSHA's answering machine, faxing the Area office, or sending an e-mail?

No, if you can't talk to a person at the Area Office, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye by either using 1-800-321-OSHA or 1-803-896-7672.

(2) What information do I need to give to OSHA about the in-patient hospitalization, amputation, or loss of an eye? You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

(i) The establishment name;

(ii) The location of the work-related incident;

(iii) The time of the work-related incident;

(iv) The type of reportable event (i.e. fatality, in-patient hospitalization, amputation, or loss of an eye);

(v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

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(vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vii) Your contact person and his or her phone number; and

(viii) A brief description of the work-related incident.

(3) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye to OSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack? Yes, your local OSHA Area Office director will decide whether to investigate the event, depending on the circumstances of the heart attack.

(6) What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must only report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to OSHA if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(7) What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to OSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(8) What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an inpatient hospitalization, an amputation, or a loss of an eye.

(9) How does OSHA define "in-patient hospitalization"? OSHA defines inpatient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.

(10) Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each inpatient hospitalization that involves care or treatment.

(11) How does OSHA define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, degloving, scalping, severed ears, or broken or chipped teeth. (Cross Reference: 1904.39)

71-340. Providing records to government representatives.

(a) Basic requirement. When an authorized government representative asks for the records you keep under Subarticle 3, you must provide copies of the records within four (4) business hours.

(b) Implementation.

(1) What government representatives have the right to get copies of my Subarticle 3 records? The government representatives authorized to receive the records are:

- (i) A representative of the Secretary of Labor conducting an inspection or investigation under the Act;
- (ii) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health-NIOSH) conducting an investigation under section 20(b) of the Act, or
- (iii) A representative of a State agency responsible for administering a State plan approved under section 18 of the Act.

(2) Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone? OSHA will consider your response to be timely if you give the records to the government representative within four (4) business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.

(Cross Reference 1904.40)

71-341. Electronic submission of injury and illness records to OSHA.

(a) Basic requirements

(1) Annual electronic submission of Subarticle 3 records by establishments with 250 or more employees. If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(2) Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 20 or more employees but fewer than 250 employees in designated industries. If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(3) Electronic submission of Subarticle 3 records upon notification. Upon notification, you must electronically submit the requested information from your Subarticle 3 records to OSHA or OSHA's designee

(b) Implementation

(1) Does every employer have to routinely submit information from the injury and illness records to OSHA? No, only two categories of employers must routinely submit information from their injury and illness records. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required Form 300A, 300 and 301 information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must submit the required Form 300A information to OSHA once a year. Employers in these two categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms (for example, 2017 for the 2016 forms). If you are not in either of these two categories, then you must submit information from the injury and illness records to OSHA only if OSHA notifies you to do so for an individual data collection.

(2) If I have to submit information under paragraph (a)(1) of this section, do I have to submit all of the information from the recordkeeping form? No, you are required to submit all of the information from the form except the following:

(i) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

(ii) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

(3) *Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section?* Yes, each individual employed in the establishment at any time

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during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

(4) *How will OSHA notify me that I must submit information from the injury and illness records as part of an individual data collection under paragraph (a)(3) of this section?* OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)(3). OSHA will also announce individual data collections through publication in the **Federal Register** and the OSHA newsletter, and announcements on the OSHA Web site. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(5) *How often do I have to submit the information from the injury and illness records?* If you are required to submit information under paragraph (a)(1) or (2) of this section, then you must submit the information once a year, by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)(3) of this section, then you must submit the information as often as specified in the notification.

(6) *How do I submit the information?* You must submit the information electronically. OSHA will provide a secure Web site for the electronic submission of information. For individual data collections under paragraph (a)(3) of this section, OSHA will include the Web site's location in the notification for the data collection.

(7) *Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records?* If you are partially exempt from keeping injury and illness records under Sections 71-301 and/or 71-302, then you do not have to routinely submit Subarticle 3 information under paragraphs (a)(1) and (2) of this section. You will have to submit information under paragraph (a)(3) of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

(8) *Do I have to submit information if I am located in a State Plan State?* Yes, the requirements apply to employers located in State Plan States.

(9) *May an enterprise or corporate office electronically submit part 1904 records for its establishment(s)?* Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (a)(1) or (2) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

(c) Reporting dates.

In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

Submission Year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017	300A	300A	July 1, 2017
2018	300A, 300, 201	300A	July 1, 2018

Beginning in 2019, establishments that are required to submit under paragraph (a)(1) or (2) of this section will have to submit all of the required information by March 2 of the year after the calendar year covered by the form or forms (for example, by March 2, 2019, for the forms covering 2018).

Cross Reference 1904.41

Appendix A to Subpart E of Subarticle 3—Designated Industries for Section 71-341(a)(2) Annual Electronic Submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by Establishments With 20 or More Employees but Fewer Than 250 Employees in Designated Industries

NAICS	Industry
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale trade
4413	Automotive parts, accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
4521	Department stores
4529	Other general merchandise stores
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service
4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals
6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities

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6242	Community food and housing, and emergency and other relief service
6243	Vocational rehabilitation services
7111	Performing arts companies
7112	Spectator sports
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
7213	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services

Cross Reference Appendix A to Subpart E of Part 1904

71-342. Requests from the Bureau of Labor Statistics for data.

(a) Basic requirement. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS); or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form.

(b) Implementation.

(1) Does every employer have to send data to the BLS? No, each year the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the Nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form.

(2) If I get a survey form from the BLS, what do I have to do? If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form.

(3) Do I have to respond to a BLS survey form if I am normally exempt from keeping OSHA injury and illness records? Yes, even if you are exempt from keeping injury and illness records under 71-301 to 71-303, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by 71-305 to 71-315 and make a survey report for the year covered by the survey.

(4) Do I have to answer the BLS survey form if I am located in a State-Plan State? Yes, all employers who receive a survey form must respond to the survey, even those in State-Plan States.

(Cross Reference 1904.42)

Subpart F Transition From the Former Rule

71-343. Summary and posting of the 2001 data.

(a) Basic requirement. If you were required to keep OSHA 200 Logs in 2001, you must post a 2001 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment.

(b) Implementation.

(1) What do I have to include in the summary?

(i) You must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:

- (A) The calendar year covered;
 - (B) Your company name;
 - (C) The name and address of the establishment; and
 - (D) The certification signature, title and date.
- (ii) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the total line and post the 2001 summary.
- (2) When am I required to summarize and post the 2001 information?
- (i) You must complete the summary by February 1, 2002; and
 - (ii) You must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the summary is not altered, defaced or covered by other material.
- (3) You must post the 2001 summary from February 1, 2002 to March 1, 2002.
(Cross Reference 1904.43)

71-344. Retention and updating of old forms.

You must save your copies of the OSHA 200 and 101 forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. You are not required to update your old 200 and 101 forms.
(Cross Reference 1904.44)

Subpart G
Definitions

71-346. Definitions.

The Act. The Act means the Occupational Safety and Health Act of Section 41-15-210 et. seq., Code of Laws of South Carolina, 1976. The definitions contained in Regulations Chapter 71, Article 1, Code of Laws of South Carolina and related interpretations apply to such terms when used in this Subarticle 3.

Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(1) Can one business location include two or more establishments? Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when:

- (i) Each of the establishments represents a distinctly separate business;
- (ii) Each business is engaged in a different economic activity;
- (iii) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and
- (iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) Can an establishment include more than one physical location? Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

- (i) The employer operates the locations as a single business operation under common management;
- (ii) The locations are all located in close proximity to each other; and
- (iii) The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

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(3) If an employee telecommutes from home, is his or her home considered a separated establishment? No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one of your establishments under 71-330(b)(3).

(4) Is the definition of establishment any different for the State of South Carolina and any political subdivision thereof [public sector]? Yes, for public sector only, an establishment is either (a) a single location where a specific governmental function is performed; or (b) that location which is the lowest level where attendance or payroll records are kept for a group of employees who perform the same governmental functions or who are in the same specific organizational unit, even though the activities are carried on at more than a single physical location.

Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illness are recordable only if they are new, work-related cases that meet one or more of the Subarticle 3 recording criteria.)

Physician or other licensed health care professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

You. "You" means an employer as defined in Regulations Chapter 71, Article 1, Code of Laws of South Carolina, 1976.

Fiscal Impact Statement:

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

Statement of Rationale:

There were no scientific or technical bases relied upon in developing the regulation.

Document No. 4768
DEPARTMENT OF LABOR, LICENSING AND REGULATION
PERPETUAL CARE CEMETERY BOARD
CHAPTER 21
Statutory Authority: 1976 Code Section 40-8-70

21-2. Definitions.

Synopsis:

The South Carolina Perpetual Care Cemetery Board proposes to amend its regulations relating to the reporting requirements for a cemetery company's care and maintenance trust fund and merchandise fund from every three years to annually.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

21-2. Definitions.

(1) “Complaint log” is a required record, pursuant to Section 40-8-100(B), of written complaints received regarding cemeteries. This log must be kept in writing by the cemetery.

(2) “Examined”, as used in Section 40-8-100(A), and subsequently with “examination”, means a special report to be determined by the board. The Cemetery Board will, as often as it deems necessary, make a physical examination of each cemetery within reasonable business hours to insure compliance with applicable laws.

(3) “Financial institution” means a bank, trust company, or savings and loan association authorized by law to do business in this State.

(4) “Licensed public accountant” means public accountant (PA) or certified public accountant (CPA) licensed in one of the United States or its territories and this accountant must practice independently from the cemetery company the accountant examines. Said accountant, pursuant to Section 40-8-100(A), shall examine a cemetery company’s care and maintenance trust fund and merchandise fund annually even if there was not a previous account.

(5) “Licensee” means a person or entity granted an authorization or license to operate pursuant to this chapter and refers to a person holding a license granted pursuant to this chapter.

(6) “Nature preserve”, for the purposes of this chapter, is a conservation burial ground for the interment of human remains.

(7) “Opening/closing” means the process of opening and closing of a grave site, which must be done in a timely manner.

(8) “Principal place of business” means the licensed cemetery’s office or primary in-state location, as per Section 40-8-100(A).

(9) “Services” or “cemetery services” means any act or activity by a cemetery in relation to arranging, supervising, interring or disposing of the remains or commemorating the memory of deceased human beings.

(10) “Non-Profit Cemetery” means a cemetery owned by a non-profit group which has established 501(C)(3) status with the Internal Revenue Service (IRS).

Fiscal Impact Statement:

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

Statement of Rationale:

These updated regulations will relieve a cemetery of the burden of maintaining 36 months’ worth of records for the purpose of compliance with government reporting requirements. It will also give the Board an opportunity to discover problems sooner rather than later, thereby better protecting the public from potential harm.

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CHAPTER 137

Statutory Authority: 1976 Code Sections 40-60-10(I)(3) and 40-60-360

137-100. Definitions.

137-100.01. Appraisal Experience Point System.

137-100.02. Qualifications.

137-100.03. Residential Appraisal Categories.

137-100.04. Residential Point Values.

137-100.05. Nonresidential Point Values.

137-100.06. Nonresidential Appraisal Categories.

137-100.07. Other Appraisal Experience.

137-200.02. Residential Mass Appraisals.

137-200.03. Nonresidential Mass Appraisals.

137-200.04. Mass Appraisal Experience Verification.

137-300.01. Responsibilities of an Apprentice Appraiser.

137-300.02. Responsibilities of a Supervising Appraiser.

137-400.01. Temporary Practice.

137-500.01. Continuing Education.

137-600.02. Ex Parte Communications.

137-600.03. Disciplinary Information.

137-600.05. (New Section) Disciplinary Action for Appraisal Management Companies

137-700.01. Hearings.

137-700.02. Role of Board Members.

137-700.03. Failure to Appear.

137-800.01. Payment of Fees.

137-800.02. Bad Checks.

137-800.03. Biennial Fee Schedule.

137-800.04. Permit, License and Certification Renewals.

137-800.05. Expired Permit, License or Certificate.

137-900.05. Curriculum and Attendance.

137-900.09. Instructors.

Synopsis:

The South Carolina Real Estate Appraisers Board proposes to: amend its regulations relating to appraisal experience, qualifications, appraisal categories, mass appraisals, apprentice and supervisor requirements, temporary practice, continuing education, and disciplinary actions; delete fees; add regulations for AMCs; and make editorial changes.

A Notice of Drafting was published in the *State Register* on July 28, 2017.

Instructions:

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

Text:

137-100. Definitions.

(1) "Asynchronous" means communication that does not take place at the same time. It is characterized by as needed, intermittent communication.

(2) "Co-Appraiser" refers to appraisals in which more than one appraiser works as a team. Applicants must have performed at least fifty (50%) percent of the work on an appraisal.

(3) "Direct Supervision" means personally reviewing an appraisal report prepared by an apprentice and signing and certifying the report as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice, these regulations and applicable statutory requirements.

(4) "Distance Education" means the process of delivering instruction when the instructors and the students are separated by distance.

(5) "Lister" refers to duties individuals perform in mass appraisals that are typically limited to the location of real property, measurement of improvements relative to such things as number of bedrooms and bathrooms, siding, decks, or other miscellaneous information.

(6) "Sole Appraiser" refers to appraisals that are completed by only one person.

(7) "Synchronous" means communication in which the interaction is simultaneous. It is characterized by live two-way communication.

137-100.01. Appraisal Experience Hourly System.

An hourly system shall be utilized by the Board to evaluate the appraisal experience of applicants.

137-100.02. Qualifications.

(A) In order to qualify as a state apprentice, licensed or certified appraiser, an applicant must meet the requirements set forth below, as well as any requirements established by the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB) of the Appraisal Foundation, as subsequently endorsed by the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(B) In order to qualify as an apprentice appraiser, an applicant:

(1) must have received 75 hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, and fifteen (15) hours in National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB;

(2) must attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(C) In order to qualify to become a state licensed real estate appraiser, an applicant:

(1) must have received one hundred fifty (150) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, and fifteen (15) hours in Residential Report Writing and Case Studies.

(2) Applicants for the Licensed appraiser classification must hold an Associate degree or higher, from an accredited college, community college, or university. In lieu of the Associate degree, an applicant for the Licensed appraiser credential shall successfully complete 30 semester hours of college-level education from an accredited college, junior college, community college or university. The college or university must be a degree-granting institution accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

(3) must have earned a minimum of two thousand hours of appraisal experience in appraising either residential or nonresidential properties. However, the maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand (1,000) hours. Qualifying

experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value; and

(4) must have at least twenty-four (24) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become licensed within two years after passing the examination must retake the examination.

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(D) In order to qualify to become a state certified residential real estate appraiser, an applicant:

(1) must have received two hundred (200) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, fifteen (15) hours in Residential Report Writing and Case Studies, fifteen (15) hours in Statistics, Modeling, and Finance, fifteen (15) hours in Advanced Residential Applications and Case Studies, and twenty (20) hours in appraisal subject matter electives;

(2) must hold a Bachelor's degree or higher, from an accredited college, community college, or university;

(3) must have earned a minimum of two thousand five hundred hours of appraisal experience in appraising either residential or nonresidential properties. However, the maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand two hundred fifty (1,250) hours. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least twenty-four (24) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for residential certification.

(E) In order to qualify to become a state certified general real estate appraiser, an applicant:

(1) must have received three hundred (300) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, thirty (30) hours in General Appraiser Market Analysis and Highest and Best Use, fifteen (15) hours in Statistics, Modeling, and Finance, thirty (30) hours in General Appraiser Sales Comparison Approach, at least thirty (30) hours in General Appraiser Site Valuation and Cost Approach, sixty (60) hours in General Appraiser Income Approach, thirty (30) hours in General Appraiser Report Writing and Case Studies, and thirty (30) hours in appraisal subject matter electives;

(2) must hold a Bachelors degree or higher from an accredited college or university;

(3) must have earned a minimum of three thousand hours of appraisal experience, fifty (50%) percent of which must come from appraising nonresidential properties. The maximum number of hours which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one thousand five hundred (1,500) hours. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least thirty (30) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for general certification.

(F) Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser's knowledge is increased.

(G) The Board may waive the examination requirements for those applicants who are currently licensed or certified in another state upon proof that the applicant has successfully passed an Appraisal Qualifications Board approved exam which served as a requirement for licensure or certification in the state where he is currently licensed or certified.

137-100.03. Appraisal Categories.

The following categories pertain to various forms of appraiser involvement and the percentage which may be awarded by the Board when evaluating appraisal experience:

Category	Percentages Assigned
(A) Sole Appraiser –	100%
(B) Co-Appraiser –	75%
(C) Field review – In order to qualify for field review experience credit, the applicant must have conducted a physical inspection of the property, as well as verified the data and checked the calculations contained in the appraisal under review. In addition, in order to qualify for experience credit in this category, an applicant must have prepared a written report recommending the acceptance, revision, or rejection of the appraisal under review.	50%
(D) Documentary or Desk Review – of an appraisal performed by another person (including a person under the applicant’s supervision) but does not include a physical inspection of the subject property. In order to qualify for experience credit in this category, an applicant must have thoroughly and critically reviewed all portions of the appraisal report and recommended the acceptance, revision, or rejection of the appraisal under review.	25%

137-100.04. Residential Experience Hours.

The following hours may be awarded by the Board concerning property types when evaluating residential appraisal experience:

Type of Appraisal	Hours Assigned
1. Appraisal of Single-Family (one unit dwelling)	8
2. Appraisal of Multi-Family (two-four units)	16
3. Appraisal of Vacant Residential Lot	6
4. Appraisal of Rural Residential Land (10-50 acres)	16
5. All other residential properties, larger or more complex than typical properties.	Hours to be determined by the Board upon submission.

137-100.05. Nonresidential Experience Hours.

The following hours may be awarded by the Board concerning property types when evaluating nonresidential appraisal experience:

Type of Appraisal	Hours Assigned
A. Vacant Land: (Undeveloped nonresidential tracts, residential multifamily sites, commercial sites, industrial sites, lands in transition, etc.)	20
B. Rural/Agricultural: (51 to 250 acres)	20
(more than 250 acres)	32
C. Residential Multi-Family (5-12 units): (apartments, condominiums, townhouses, mobile home parks, etc.)	40

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D. Residential Multi-Family (13 units or more): (Apartments, condominiums, townhouses, mobile home parks, etc.)	56
E. Commercial Single-Tenant: (Office building, retail store, restaurant, service station, bank, day-care center, etc.)	40
F. Commercial Multi-Tenant: (Office building, shopping center, hotel/motel, etc.)	64
G. Industrial: (Warehouse, manufacturing plant, etc.)	
Under 20,000 square feet	40
20,000 square feet or more	72
H. Institutional: (Nursing home, hospital, school, church, government building, etc.)	72
I. Specialized or more complex properties	Hours to be determined by Board upon submission.

137-100.06. Co-Appraiser Experience

An appraiser with any credential, licensed under this chapter, can assist in any appraisal assignment, as long as the appraiser signs the report for providing professional assistance. A co-appraiser can claim experience credit using seventy-five (75%) of the experience hours as allowed in 137-100.04 and 137-100.05.

137-100.07. Other Appraisal Experience.

(A) Applicants may receive credit for appraisals of other types of real property not listed in these Regulations. The Board may, on an individual basis, determine the amount of credit to be awarded for such appraisals based on information provided to the Board by the applicant.

(B) Experience credit may be awarded for mass appraisal activity provided such activity is in compliance with the standards set forth in the Uniform Standards of Professional Appraisal Practice. However, the maximum number of experience hours an applicant will be awarded for mass appraisal activity is fifty percent (50%).

(C) Mass appraisal experience will not be awarded for activity performed by individuals commonly referred to as "listers." Activity by listers does not, in and of itself, apply the methods and techniques utilized in the appraisal process and consequently will not be credited as appraisal experience.

(D) Duties performed by listers are not considered regulated appraisal activity and therefore listers are not required to become licensed or certified under the South Carolina Real Estate Appraisers and Appraisal Management Companies Act.

137-200.01. Mass Appraisal Activity.

(A) Appraisal experience may be obtained through mass appraisal activity when applicants can demonstrate that after receiving information supplied by the lister the person claiming mass appraisal experience credit inspected the subject property, determined the quality or classification of the property, estimated the depreciation of the improvements, determined the land or lot value based on market sales of comparable properties adjusted to the subject property, and reviewed the estimated value of the property against comparable sales in order to ensure the value estimate approximated market value.

(B) Ad valorem appraisal experience may be obtained through individual property appraisals utilizing the entire appraisal process.

137-200.02. Residential Mass Appraisals.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating residential mass appraisal experience:

(A) Sole Appraiser

	Type of Appraisal		Hours Assigned
1.	Single-Family (one-unit dwelling)	New	2
		Update	1
2.	Multi-Family	New	2

	(two-four units)	Update	1
3.	Residential Lots	New	2
	(4 lots or less)	Update	1
4.	Rural Residential Land	New	2
	(50 acres or less)	Update	1

(B) Co-Appraiser

	Type of Appraisal		Hours Assigned
1.	Single-Family	New	1
	(one unit dwelling)	Update	.50
2.	Multi-Family	New	1
	(two-four units)	Update	.50
3.	Residential Lots	New	1
	(4 lots or less)	Update	.50
4.	Rural Residential Land	New	1
	(50 acres or less)	Update	.50

137-200.03. Nonresidential Mass Appraisals.

The following categories pertain to various forms of appraiser involvement and the hourly values which may be awarded by the Board when evaluating nonresidential mass appraisal experience:

(A) Sole Appraiser

	Type of Appraisal		Hours Assigned
1.	Vacant Land	New	2
		Update	1
2.	Rural Agricultural	New	2
	(51 acres to 250 acres)	Update	1
3.	Rural Agricultural	New	2
	(more than 250 acres)	Update	1
4.	Multi-Family	New	8
	(5-12 units)	Update	4
5.	Multi-Family	New	12
	(13 or more units)	Update	6
6.	Commercial	New	8
	(single tenant)	Update	4
7.	Commercial	New	16
	(multi-tenant)	Update	8
8.	Industrial	New	8
	(under 20,000 square feet)	Update	4
9.	Industrial	New	12
	(more than 20,000 square feet)	Update	6

10.	Institutional	New	12
		Update	6

(B) Co-Appraiser.

	Type of Appraisal		Hours Assigned
1.	Vacant Land	New	1
		Update	.50
2.	Rural Agricultural	New	1

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	(51 acres to 250 acres)	Update	.50
3.	Rural Agricultural	New	1
	(more than 250 acres)	Update	.50
4.	Multi-Family	New	4
	(5-12 units)	Update	2
5.	Multi-Family	New	6
	(13 or more units)	Update	3
6.	Commercial	New	4
	(single tenant)	Update	2
7.	Commercial	New	8
	(multi-tenant)	Update	4
8.	Industrial	New	4
	(under 20,000 square feet)	Update	2
9.	Industrial	New	6
	(more than 20,000 square feet)	Update	3
10.	Institutional	New	6
		Update	3

137-200.04. Mass Appraisal Experience Verification.

Persons claiming mass appraisal experience must provide a statement of verification of the experience claimed. This verification should be completed by the applicant's supervisor or employer where the mass appraisal experience was required. The experience claimed by the applicant must be reported on a form approved by the Board.

137-300.01. Responsibilities of an Apprentice Appraiser.

(A) The holder of an apprentice appraiser permit issued by the Board must comply with the following:

(1) The apprentice shall perform appraisal assignments only under the direct supervision of a state certified residential or state certified general real estate appraiser.

(2) The apprentice and supervisor are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(3) The apprentice shall maintain a log which shall contain the following for each appraisal assignment:

(a) Date of appraisal.

(b) Address of appraised property.

(c) Description of work performed by the apprentice and scope of the review and supervision of the supervising appraiser.

(d) Type of property.

(e) Hours by the apprentice on the assignment.

(f) Name, signature and certification number of supervising appraiser.

(4) The apprentice shall maintain copies or have access to all appraisals.

(5) The apprentice shall make the log and all appraisals available at all times for inspection by the Board.

(6) When performing appraisal assignments, the apprentice shall have in his or her possession the permit issued by the Board.

(7) The apprentice is eligible to take the appraisal licensing or certification examinations after completing the requisite Board-approved AQB Core Curriculum and experience required for the Licensed or Certified appraiser classification.

137-300.02. Responsibilities of a Supervising Appraiser.

(A) With respect to an apprentice appraiser employed or retained by or associated with a state certified appraiser:

(1) A state certified appraiser having direct supervisory authority over the apprentice appraiser shall make reasonable efforts to ensure that the apprentice's conduct is compatible with the professional standards of the supervising appraiser.

(2) A supervising appraiser shall be responsible for conduct of an apprentice appraiser that would be a violation of the Uniform Standards of Professional Appraisal Practice if:

(a) the supervising appraiser orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(b) the supervising appraiser has direct supervisory authority over the apprentice, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(B) A supervising appraiser of an apprentice appraiser shall also:

(1) The supervisor and apprentice are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(2) Acknowledge in the appraisal certification the professional contribution of the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice; and

(3) Provide the apprentice with a copy or allow access of any final appraisal document in which the apprentice participated.

(4) Jointly maintain with the apprentice appraiser an experience log as established in Section 137-300.01(A)(3).

(5) Must be certified for a minimum of three years prior to being eligible to become a supervisory appraiser.

(6) Be in good standing with the Board and not subject to any disciplinary action in any jurisdiction within the last three years that affects the supervisor's legal eligibility to engage in the practice of appraising. A supervisory appraiser subject to a disciplinary action would be considered to be in "good standing" three (3) years after the successful completion/termination of the sanction imposed against the appraiser.

137-400.01. Temporary Practice.

(A) The Board shall grant a temporary permit to practice as a state licensed, state certified residential, or state certified general appraiser to persons who are licensed or certified to perform appraisals in another state. A person desiring a temporary practice permit must file an application as prescribed by the Board.

(B) The temporary practice permit shall be effective for one specific appraisal assignment. The application for temporary practice must state the specific appraisal assignment to which it will apply.

(C) If the appraisal assignment is not completed within six (6) months from the date of the permit, the Board may request that the appraiser show cause why the assignment is not complete. The Board may grant a six (6) month extension upon request of the appraiser and prior to the expiration of the current permit.

(D) A temporary practice permit issued by the Board must bear a number assigned by the Board. When signing an appraisal report while practicing under a temporary practice permit in this State, the holder thereof shall place the following notation: "Practicing in the State of South Carolina under Temporary Practice Permit No.>". The notation must be used in all statements of qualification, contracts, or other instruments used by the appraiser when reference is made to his authority to perform appraisal activity in this State.

137-500.01. Continuing Education.

(A) All appraisers, including apprentice appraisers, prior to their first and all subsequent renewals of their authorization to engage in real estate appraisal activity, must complete the continuing education requirement of at least twenty-eight (28) class hours of approved instruction biennially.

(B) Continuing education is to be reported on a form approved by the Board and must have all supporting documentation attached. To ensure that it is recorded prior to the renewal deadline of June 30 and does not delay an appraiser's renewal, it should be received by the Board no later than June 1. The Board cannot guarantee that a renewal will be processed prior to the expiration date of June 30 if forms are received after June 1.

(C) Approved qualifying courses may be used to meet the continuing education requirement provided that the following conditions are met:

(1) Qualifying courses taken after July 1, 1992, must be on the approved list.

(2) The level of the course must be above the appraiser's current status [e.g. a licensed appraiser may receive continuing education credit for taking a Certified Residential or Certified General Level Course].

(3) Credit will not be given for the same category course taken within a two (2) year period.

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(4) The current 7-hour National Uniform Standards of Professional Appraiser Practice Update Course must be taken by all appraisers prior to each renewal.

(D) Appraisers may request that they receive credit for continuing education for a course taken that has not been approved by the Board. Appraisers may use qualifying courses for continuing education credit provided that the content is substantially different from their previously completed qualifying courses. Credit will be granted only if the appraiser provides satisfactory proof of course completion and the Board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length, instructor qualification and student attendance. Requests for continuing education credit for non-approved courses must be made on a form approved by the Board and must be submitted along with a nonrefundable fee.

(E) Appraisers who received their authority to engage in real estate appraisal activity in South Carolina through either a reciprocal agreement with their state of residence or as a non-resident South Carolina appraiser may meet the continuing education requirements by providing evidence that they have met the continuing education requirements of their state of residence. Such real estate appraisal requirements must meet South Carolina's minimum hour requirements and be approved by the regulatory agency in their state.

(F) Submission of false or misleading information is grounds for immediate revocation of the appraiser's authority to practice and other disciplinary actions.

(G) Approved instructors may receive up to one-half of their continuing education credit for teaching continuing education courses, subject to Board approval. Credit will not be given for the same continuing education course more than once during a continuing education cycle.

137-600.01. Member Request for Investigation.

If a member of the Board files a complaint or requires an investigation, such complaint or request shall serve to disqualify the member from participating in any hearing or a consent agreement regarding the matter. That member shall be prohibited from discussing the issue with other members, except as a witness or party, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

137-600.03. Disciplinary Actions For Appraisers, Providers and Instructors.

(A) The Board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, investigate the activities of an applicant or a person permitted, licensed, or certified under this chapter and may deny, suspend, revoke, or otherwise restrict a permit, license, or certification and/or impose a public or private reprimand, other discipline, and/or a fine not to exceed two thousand dollars for each violation with a total fine not to exceed ten thousand dollars, if the Board finds an applicant, State apprentice appraiser, licensed appraiser, or certified appraiser has violated any provision of the South Carolina Real Estate Appraisers and Appraisal Management Companies Act or these regulations.

(B) When an appraiser has previously been sanctioned by the Board or by any other state's real estate appraiser regulatory authority, the Board may consider these prior sanctions in determining the severity of a new sanction which may be imposed upon a finding that an appraiser has violated a provision of this chapter or any of the regulations of the Board. The failure of an appraiser to comply with or to obey a final order of the Board may be cause for suspension or revocation of the individual's permit, license, or certification after opportunity for a hearing.

(C) The Board may fine and publicly or privately reprimand a provider or instructor or deny, revoke, suspend or otherwise withdraw the approval of any provider or instructor upon finding that the provider or instructor:

(1) Fails to meet the criteria for approval referenced by these Regulations or no longer meets the standards established by the Board; or

(2) Provides false or materially inaccurate information to the Board when making application for approval; or

(3) Fails to provide information requested by the Board; or

(4) Falsifies official documents or reports; or

(5) Otherwise violates or fails to satisfy the provisions of the South Carolina Real Estate Appraisers and Appraisal Management Companies Act and the regulations pertaining thereto or any other applicable professional licensing laws and regulations.

(D) Before any sanction is imposed upon a provider or instructor, the provider or instructor shall be entitled to a hearing. The hearing must be at a time and place designated by the Board and in accordance with the provisions of the applicable statutes and the Administrative Procedures Act.

137-600.05. Disciplinary Action for Appraisal Management Companies.

The Board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, investigate the activities of a company registered under this chapter and regulations and may deny, suspend, revoke, or otherwise restrict a registration and/or impose a public or private reprimand, other discipline, and/or fine not to exceed ten thousand dollars for an initial violation and not to exceed twenty thousand dollars for subsequent violations and may require payment of investigative costs.

137-800.01. Payment of Fees.

Fees associated with an initial application (including the examination fee) to become a permitted, registered, licensed, or certified real estate appraiser or registered as an appraisal management company must be paid by check or money order.

137-800.02. Bad Checks.

Checks issued by an applicant or an appraiser which are returned for insufficient funds or not honored for any cause are considered prima facie evidence of untrustworthiness or incompetency in such a manner as to endanger the interest of the public and may subject the applicant, appraiser, or appraisal management company to disciplinary action.

A. If the check is in payment of a fee for which authority to engage in real estate appraisal or as an appraisal management company has been issued, that authority may be immediately cancelled or revoked.

B. Where a check or checks are incorrectly returned by a bank or other depository because of the bank or depository's error, a statement to that effect from the bank or depository will be required before such appraisal or appraisal management authority will be reissued.

137-800.04. Permit, License, Certification and Registration Renewals.

(A) All appraiser permits, licenses, and certifications expire biennially on June 30, except those appraisers who first become permitted, licensed or certified in the last quarter of the fiscal year (April 1 to June 30) are not required to renew until the following renewal period.

(B) All appraisal management company registrations expire biennially on June 30 (odd years), except those registrations that are received in the last quarter of the renewal year (April 1 to June 30) are not required to renew until the following renewal period.

137-800.05. Expired Permit, License, Certificate, or Registration.

(A) Permits, licenses and certificates expired for more than twelve (12) months will be cancelled. Such cancelled permits, licenses and certificates may be considered for reinstatement upon proper application, payment of the original license or certificate fee, and proof of having obtained continuing education equal to the total number of class hours that would have been required had the permit, license or certificate been continuously renewed including the most recent 7-hour National Uniform Standards of Professional Appraisal Practice Update Course. Such applications will be reviewed by the Board to determine whether an examination and/or additional real estate appraisal education will be required.

(B) Registrations of an appraisal management company expired for more than twelve (12) months will be cancelled. Such cancelled registration may be considered for reinstatement upon proper application and payment of the original registration fee and any late fee. Such applications will be reviewed by the Board to determine reinstatement and any further required conditions of reinstatement.

137-800.06. Disclosure of Appraiser Classification and Number.

(A) When signing an appraisal report, an appraiser shall, adjacent to his or her signature, print or type his or her appraiser classification and number assigned by the Board.

(B) When an individual holds himself out as an appraiser either in any advertisement, statement of qualifications, contract or other instrument used by the appraiser, the appraiser shall print or type his or her

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name, appraiser classification, and number assigned by the Board. If the appraiser signs such document or advertisement, the appraiser shall, adjacent to his or her signature, print or type his or her appraiser classification and number assigned by the Board.

137-900.01. Educational Providers - Approval Required.

(A) Providers seeking approval to offer and conduct appraiser qualifying instruction (prelicensing/precertification) and/or continuing education instruction must make application on a form approved by the Board. Upon approval, the South Carolina Appraisers Board will issue a Certificate of Approval prior to the commencement of any instruction.

(B) Providers teaching courses prior to being approved by the Board will not have their Certificates of Completion recognized by the Board.

137-900.02. Exemption from Regulation.

Courses offered as part of a degree program by an accredited college or university or a technical, community, or junior college may be deemed approved by the Board if they are equivalent in hours and subject matter to those specified by the Board. These providers are exempt from regulation by the Board, and original transcripts or other proof of course completion with a passing grade may be recognized and accepted as a prerequisite for examination or for meeting the requirements for continuing education.

137-900.03. Providers of Courses.

(A) Courses offered by an accredited college or university or a technical, community, or junior college but which are not part of a degree program, may be approved if they comply with the regulations of the Board with regard to curriculum, instructors, classroom facilities, hours of attendance, texts, examinations and Certificates of Completion as well as comply with the policies and procedures of the appropriate department of the institution.

(B) Courses offered by other providers may be approved if they comply with the regulations of the Board with regard to curriculum, instructors, classroom facilities, hours of attendance, texts, examinations. Certificates of Completion and if the policies and procedures of the provider are also approved by the Board.

137-900.04. Application for Provider Approval.

(A) Providers of courses must furnish to the Board a completed application and all supporting documentation as required by the Board at least sixty (60) days prior to offering course. Applicable fees must accompany the application.

(B) Other information not submitted with the application, but which is information deemed important to the consideration thereof, may be required by the Board.

(C) If the application is disapproved, reason(s) for disapproval will be detailed and the provider may be given thirty (30) days to cure any deficiencies found. If deficiencies are cured, the application will be approved.

137-900.05. Curriculum and Attendance.

(A) Topics for qualifying courses referenced in the South Carolina Real Estate Appraisers and Appraisal Management Companies Act must be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable to the performance of a wide range of appraisal assignments that

will commonly be encountered by licenses or certified appraisers in connection with appraisals in federally-related transactions. The courses must be at least fifteen (15) hours and must include an examination pertinent to that educational offering. Prelicense appraisal courses must be in modules which require a specified number of education hours at each credential level as established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation.

(B) The seventy-five (75) hours required for qualifying as a real estate apprentice appraiser must emphasize appraisal of one-to four-unit residential properties and must include content on the following course modules:

1. Basic Appraisal Principles (30 hours);
2. Basic Appraisal Procedures (30 hours);
3. National USPAP Course or its equivalent as determined by the AQB (15 hours).

(C) The one hundred fifty (150) hours required for a state licensed real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours) and the National USPAP Course or its equivalent as determined by the AQB (15 hours) in addition to the following course modules:

1. Residential Market Analysis And Highest And Best Use (15 hours);
2. Residential Appraiser Site Valuation And Cost Approach (15 hours);
3. Residential Sales Comparison And Income Approaches (30 hours);
4. Residential Report Writing And Case Studies (15 hours).

(D) The two hundred (200) hours required for a state certified residential real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Residential Market Analysis And Highest And Best Use (15 hours), Residential Appraiser Site Valuation And Cost Approach (15 hours), Residential Sales Comparison And Income Approaches (30 hours), and Residential Report Writing And Case Studies (15 hours) in addition to the following course modules:

1. Statistics, Modeling And Finance (15 hours);
2. Advanced Residential Applications And Case Studies (15 hours);
3. Appraisal Subject Matter Electives (20 hours and may include hours over the minimum in other modules).

(E) The three hundred (300) hours required for a state certified general real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Statistics, Modeling And Finance (15 hours) in addition to the following course modules:

1. General Appraiser Market Analysis And Highest And Best Use (30 hours);
2. General Appraiser Sales Comparison Approach (30 hours);
3. General Appraiser Site Valuation And Cost Approach (30 hours);
4. General Appraiser Income Approach (60 hours);
5. General Appraiser Report Writing And Case Studies (30 hours);
6. Appraisal Subject Matter Electives (30 hours and may include hours over the minimum in other modules).

(F) Topics for continuing education courses must contribute to the goal of maintaining or increasing the knowledge, skill and competence of real estate appraisers with regard to the performance of real estate appraisals in a manner that best serves the public interest and must be a minimum of two (2) class hours in length.

(G) Learning objectives and detailed lesson plans reflecting the course content with time allotments must be furnished to the Board at the time of application for approval, along with copies of all quizzes and examinations for qualifying courses. Examinations and the criteria for such examinations and final grade determination may be developed by each provider based on its individual concepts. The Board may, however, direct alterations in examinations procedures, criteria for passing, and administration whenever deemed necessary.

(H) Providers must identify to the Board the texts to be used in any approved course of instruction. The Board may direct that the school withdraw texts and may require additional instructional materials.

(I) For qualifying courses, providers must establish uniform testing and grading procedures for their quizzes and examinations and must use approved instructors for administering and monitoring all such tests. No proprietor, instructor or any other individual may arbitrarily alter a student's grade or offer to students any re-

examination of the same test previously administered. Retake examinations must contain at least eighty percent (80%) new material.

(J) Class meetings must be limited to a maximum of eight (8) hours in any given day. Students must be allowed one ten (10) minute break each hour and must be allowed at least one thirty minute break for classes that exceed four (4) hours. Providers must require strict attendance of all classroom hours required by law and must maintain records indicating all student absences.

(K) Providers may offer students failing to meet the minimum-hour requirement make-up sessions as follows:

1. a make-up session offered by the provider consisting of the content covered in the session or hours missed; or
2. a video tape of the class session missed, supervised by the instructor, if not more than twenty percent (20%) of the classroom hours are missed; or

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3. attendance of the same class session offered by the provider at a future date.

(L) Each provider must prepare and submit to the Board reports verifying completion of a course for each licensee who satisfactorily completes the course. Such reports shall be transmitted electronically fourteen (14) calendar days following the course. The verified Course Completion Report shall list: the course identification number assigned by the Board, provider's name, instructor's name, title, location and dates of course; full legal name, address, phone number, permit/license/certificate number, if applicable, of each student, along with the number of hours in attendance and final grade, if applicable. The Course Completion Report must be verified by an authorized official of the provider.

(M) A Certificate of Completion prescribed by the Board shall be awarded to each course graduate, signed and dated by the authorized official of the provider, and must contain the course identification number assigned by the Board, provider's name and address, title, location, dates and number of hours of the course, full legal name, and license number, if applicable, of the student.

137-900.06. Provider, Instructor and Course Renewals.

All provider, course, and instructor approvals expire biennially on August 31 of even-numbered years. If issued in odd-numbered years, they shall be renewed the following year and then biennially thereafter. Renewal forms will be mailed to all approved providers and instructors, and completed forms must be received in the Board's office not later than August 15 to insure renewal by August 31. Renewal fees must accompany the form and a late fee will be charged if received after August 31.

137-900.07. Enrollment Agreement Policies and Procedures.

(A) An enrollment agreement must be signed by the provider and student prior to the commencement of classes. A copy of the enrollment agreement containing all policies and procedures must be furnished to the student.

(B) The enrollment agreement must contain, at a minimum the following:

1. The name and address of provider and student;
2. Name of course;
3. Tuition and methods of payment, along with terms of any refund policy. If the provider has no policy for refunding fees, it must so state in writing;
4. Provider's policy for cancellation of scheduled courses;
5. The grade required for passing, methods for testing and final grade determination, if applicable;
6. Total hours of attendance required;
7. Scheduled meeting time, dates and location of course; for absences and for re-taking a failed examination, if applicable; and
8. Statement of non-discrimination in admittance requirements.

137-900.08. Other Operating Procedures.

(A) Teaching methods.

Courses must be taught by Board-approved instructors and presented using traditional classroom teaching methods. Correspondence courses will not be approved. Nothing in this section, however, shall prohibit the use of video equipment as a teaching supplement.

(B) Distance Education Courses may be acceptable for qualifying and continuing education provided that the following has been met:

1. The course is presented to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor student attendance;
2. Asynchronous and synchronous courses have received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and the South Carolina Real Estate Appraisers Board for course content;
3. For qualifying and continuing education, the student must successfully complete the course mechanisms required for accreditation which demonstrates mastery and fluency of the content. Incremental student assessments must be present throughout asynchronous continuing education courses in order to be acceptable.

(C) Facilities and equipment.

1. All facilities must meet the appropriate building, health and fire codes, must be maintained in a safe and sanitary condition at all times and are subject to inspection and approval by a representative of the Board.

2. Classrooms must be of sufficient size to accommodate comfortably all students enrolled in a course, shall have adequate light, heat, cooling and ventilation, and shall be free of distractions which would disrupt class sessions.

3. Classrooms must contain a chalkboard or other audio-visual aid and desks or worktables sufficient to accommodate all students enrolled in a course.

(D) Advertising.

1. "Advertising" includes any form of public notice, however disseminated. This definition includes all publications and promotional items and efforts which could normally be expected to be seen or heard by prospective students. Examples include but are not limited to: catalogs, flyers, signs, mailing pieces, radio, television, audio-visual, newspaper or any other form of public notice designed to aid in the provider's recruiting and promotional activities. Advertising also includes oral communications.

2. Each provider must maintain high standards in the conduct of its operations, solicitation of its students and in its advertising and promotional material. The use of any unfair or deceptive practice or the making or causing to be made of any false, misleading or deceptive statement in any advertising or promotional material which has the tendency or capacity to mislead or deceive students, prospective students, or the public shall be cause for disciplinary action.

3. The name of the provider must be disclosed in each advertising offering.

4. A provider may not advertise or imply that it is "recommended" or "endorsed" by the South Carolina Real Estate Appraisers Board.

(E) Audit and record keeping.

1. Providers must keep copies of all enrollment agreements, advertising, rosters and attendance records. Such records must be kept for five (5) years and be made available to a representative of the Board upon request.

2. Providers must permit periodic inspections and auditing by a representative of the Board for the purpose of evaluating facilities, course content, instructor performance of any other relevant aspect of the administration and conduct of such course.

(F) Changes.

Proposed changes to name, course content and/or length, texts, instructors, operating policies and procedures must be submitted to and approved by the Board prior to implementation.

(G) Complaints.

Providers must post in a conspicuous place a notice which states the following: "Any complaint concerning a Board-approved real estate appraiser course or instructor should be directed to the South Carolina Real Estate Appraisers Board at (the Board's current address)."

137-900.09. Instructors.

(A) Approved courses held in this state must be taught by Board-approved instructors. Instructors teaching courses which are part of a degree program offered by an accredited college, university, technical college, community college or junior college may be deemed approved by the Board.

(B) Applicants for instructor approval must submit an application form along with supporting documentation as proof of knowledge of subject matter and the ability to teach effectively.

1. As proof of knowledge of the subject matter to be taught, one or more of the following will be considered:
(a) For License and Certified Residential Level Courses, an active state certified residential or certified general appraiser certificate issued by the Board or other authority acceptable to the Board, and at least three (3) years of appraisal experience; or

(b) For Certified General Level Courses, an active state certified general appraiser certificate issued by the Board or other authority acceptable to the Board, and at least three (3) years of nonresidential appraisal experience; or

(c) A college degree in an academic area directly related to the course; or

(d) Previous employment by a state or federal agency performing appraisal work for at least five (5) years immediately preceding application; or

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(e) Past experience and/or education acceptable to the Board in a subject area directly related to the course.

2. For continuing education courses acceptable proof of knowledge would also include:

(a) Three (3) years of experience within the past five (5) years directly related to subject matter to be taught; or

(b) Three (3) years of experience within the past five (5) years teaching the subject matter to be taught.

3. As proof of the ability to teach effectively, one or more of the following will be considered:

(a) A current teaching certificate issued by any state department of education (or an equivalent agency);

(b) A four-year undergraduate degree in education; or

(c) Previous experience teaching in schools, seminars or in an equivalent setting for three (3) years within the past five (5) years; or

(d) Serving as a trainee or assistant instructor under the direct supervision of a Board approved instructor for at least sixty (60) hours; or

(e) Past experience acceptable to the Board in the area of education.

(C) Instructors of the 15-hour National USPAP Course and the 7-hour USPAP Update Course must be AQB Certified USPAP Instructors who are also certified appraisers.

(D) Instructors may be approved by the Board to teach one or more specific subjects or courses as outlined in the South Carolina Real Estate Appraisers and Appraisal Management Companies Act.

(E) An instructor may teach approved courses at locations throughout the State of South Carolina but must notify the Board in advance and record his name on the provider's roster.

(F) A fee must accompany the application for each instructor approval.

(G) Other information not submitted with the application, but which is deemed important to the consideration thereof, may be required by the Board.

(H) If the application is disapproved, reason(s) for disapproval will be detailed and the instructor will be given an opportunity to cure any deficiencies found within thirty (30) days. If deficiencies are cured, the application will be approved.

(I) Each instructor must prominently display in the classroom where an approved course is being offered, a copy of Certificate of Approval.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will make necessary updates to comply with Federal requirements, delete sections already appearing in statute, add information pertinent to appraisal management companies, remove fees, clarify existing language, and make editorial changes.

Document No. 4778
DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
CHAPTER 106

Statutory Authority: 1976 Code Sections 40-1-70 and 40-59-70

106-1. Classification of Residential Specialty Contractors.

Synopsis:

The South Carolina Residential Builders Commission proposes to amend its regulations by making additions to the types of work that may be performed within certain residential specialty contractor classifications.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

106-1. Classification of Residential Specialty Contractors.

In furtherance of established custom and usage within the construction industry and in recognition of the historical fact that the different skills, knowledge and experience necessary to the specialized trades and crafts has customarily limited activity and participation therein, the following classifications denote those residential specialties available for registration or licensure, as determined by the Commission. Holders thereof are restricted to the scope of operations set forth as to each.

a. Plumbers: the installation, alteration and repair of water and natural gas piping systems, sewage systems and water filter and purification and conditioning systems, including all related fixtures, vents, and devices common to the residential building industry.

b. Electricians: the installation, alteration and repair of any wiring, related electrical material and equipment common to the residential building industry.

c. Heating and air conditioning installers and repairers: the installation, replacement, alteration, or repair of air conditioning equipment and systems, limited to five tons cooling and 175,000 BTU/HR heating per unit, which consist of a number of components necessary to produce conditioned air for environmental heating or cooling, or both, within a residence, including package equipment, heating and cooling systems: and the installation, alteration, and repair of ventilation systems including duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, or control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks (except those used for liquid propane gas), water and gas piping from service and heating circuits and air handling systems, including gas fired furnaces and space heaters, and factory assembled single package units and split type direct expansion equipment, including heat pumps.

d. Vinyl and aluminum siding installers: the installation, alteration and repair of vinyl and aluminum siding common to the residential building industry.

e. Insulation installers: the installation, alteration and repair of insulating materials for the purpose of temperature or sound control, excluding any exterior roofing materials such as foam and reflective coating common to the residential building industry.

f. Roofers: the installation, alteration and repair of materials common to the residential building industry that form a water tight, weather resistant surface for roofs and decks, including all accessories, flashing, valleys, gravel stops and roof insulation panels above the roof deck.

g. Floor covering installers: the installation, replacement and repair of floor covering materials and related accessories including preparation of the surface to be covered: included are materials manufactured of asphalt, vinyl, rubber, linoleum, and carpet.

h. Masons: the installation, alteration and repair of poured-in-place concrete foundations (e.g. footings or reinforced slabs), brick, concrete block, and products common to the masonry industry, including mortarless types and synthetic masonry products common to the residential building industry.

i. Dry Wall Installer: the installation, alteration and repair of plaster, gypsum wall board, pointing, accessories, taping and texturing on structures both interior and exterior common to the residential building industry.

j. Carpenters: the installation, alteration and repair of rough and general carpentry work on new and existing structures including accessories and related hardware common to the residential building industry.

k. Stucco installers: the installation, alteration and repair of stucco finishes, including Exterior Insulation and Finish Systems (EIFS), which is defined as multi-layered exterior wall systems consisting of a durable water

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proof finish coat, a reinforced base coat, and insulation board, all secured to plywood or other substance by means of an adhesive and/or mechanical attachment.

l. Painters/Wallpaperers: the application of materials common to the painting and decorating industry for protective or decorative purposes, includes surface preparation, caulking, sanding and cleaning preparatory to painting common to the residential building industry; and the installation, alteration and repair of surface coverings such as vinyls, wallpapers, and cloth fabrics, decorative texturing, taping and finishing of drywall in conjunction with surface painting only common to the residential building industry.

m. Solar Panel Installers: Fabricating, assembling, installing, and replacing solar panels and related components common to the residential building industry. Roof mounting of solar panels shall only be performed by a licensed Residential Builder, registered Residential Specialty Contractor with a Roofer classification or a General Contractor with General Roofing or Specialty Roofing licensed by the South Carolina Contractor's Licensing Board. Wiring and connections shall only be performed by a licensed Residential Builder, licensed Residential Electrician or a Mechanical Contractor with Electrical classification licensed by the South Carolina Contractor's Licensing Board. If a roof requires structural upgrades for the mounting and installing of solar panels, any structural upgrading of the roof must be performed by a licensed Residential Builder, or a registered Residential Specialty Contractor with a Carpenter classification or a licensed General Contractor with Building or Structural Framing classifications.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulations will add types of work that may be performed within certain residential specialty contractor classifications.

Document No. 4777

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION**

CHAPTER 106

Statutory Authority: 1976 Code Section 40-59-70

106-2. Residential Specialty Contractors License.

Synopsis:

The South Carolina Residential Builders Commission proposes to amend Regulation 106-2 to comport with statutory language.

A Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

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

Text:

106-2. Residential Specialty Contractors License.

As provided by Section 40-59-220, the Commission finds that the following residential specialty classifications must be licensed after examination satisfactorily demonstrating that an applicant is qualified to engage in a residential specialty contractor classification. When the cost of an undertaking to be performed by a licensed residential specialty contractor exceeds five thousand dollars, the licensee must obtain an executed surety bond in an amount approved by the Commission not less than ten thousand dollars.

a. Heating and Air Conditioning Installer and Repairers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire for more than three years or is suspended or revoked, examination shall be required for the license to be re-issued.

b. Plumbers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire for more than three years or is suspended or revoked, examination shall be required for the license to be re-issued.

c. Electricians, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire for more than three years or is suspended or revoked, examination shall be required for the license to be re-issued.

Fiscal Impact Statement:

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

Statement of Rationale:

Regulation 106-2 is amended to comport with statutory language.

Document No. 4799
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-3-100, 50-9-650, 50-11-10, 50-11-65, 50-11-96, 50-11-105, 50-11-310, 50-11-315, 50-11-320, 50-11-350, 50-11-365, 50-11-390, 50-11-410, 50-11-430, 50-11-500, 50-11-520, 50-11-525, 50-11-530, 50-11-580, 50-11-854, 50-11-2200 and 50-11-2210

- 123-40. Wildlife Management Area Regulations
- 123-51. Turkey Hunting Rules and Seasons
- 123-52. Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-4
- 123-53. Bear Hunting Rules and Seasons

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Synopsis:

These regulations amend Chapter 123-40 Wildlife Management Area Regulations, 123-51 Turkey Hunting Rules and Seasons, 123-52 Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-4, and 123-53 Bear Hunting Rules and Seasons in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas, provide additional turkey hunting opportunity on new properties in the WMA program, provide for expanded opportunity for bird dog training on public lands, clarify antlerless deer tag regulations and change bear regulations to conform to existing state law.

A Notice of Drafting for this regulation was published on October 27, 2017 in the *South Carolina State Register*, Volume 41, Issue No. 10.

Instructions:

Amend Regulations 123-40, 123-51, 123-52 and 123-53 as indicated below. Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

123-40. Wildlife Management Area Regulations.

A. Game Zone 1

1. Other WMAs

- (a)(i) delete text as indicated
- (d)(i) delete text and insert new text as indicated
- (d)(ii) delete
- (d)(iii) delete
- (e)(i) delete text and insert new text as indicated
- (e)(ii) delete
- (e)(iii) delete
- (e)(iv) delete

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

- (a)(i) delete text as indicated

B. Game Zone 2

1. Other WMAs

- (a)(i) delete text as indicated

2. Keowee WMA

- (c)(i) delete text as indicated

3. Draper WMA

- (b)(i) delete text as indicated

4. Fant's Grove WMA

- (b)(i) delete text as indicated

5. Rock Hill Blackjacks Heritage Preserve WMA

- (a)(i) delete text as indicated

6. Belfast WMA

- (c)(i) delete text as indicated

7. Broad River Waterfowl Management Area

- (a)(i) delete text as indicated

10. Liberty Hill WMA

- (b)(i) delete either-sex

12. Delta South WMA

- (a)(i) delete text as indicated

13. Forty Acre Rock HP WMA

- (a)(i) delete text as indicated

- C. Game Zone 3
 - 1. Other WMAs
 - (a)(i) delete text as indicated
 - 2. Crackerneck WMA and Ecological Reserve
 - (a) delete text and insert new text as indicated
 - 3. Aiken Gopher Tortoise Heritage Preserve WMA
 - (a)(i) delete either-sex
 - 4. Ditch Pond Heritage Preserve WMA
 - (a)(i) delete text as indicated
 - 5. Henderson Heritage Preserve WMA
 - (a)(i) delete text as indicated
 - 6. Francis Marion National Forest
 - (a) delete text as indicated
 - (d) Hellhole WMA
 - (i)(1) delete text as indicated
 - (e) Waterhorn WMA
 - (i)(1) delete text as indicated
 - (f) Wambaw WMA
 - (i)(1) delete text as indicated
 - (iii)(2)(a) delete text as indicated
 - (iv)(1) delete text and insert new text as indicated
 - (v)(2) delete text as indicated
 - (g) Northampton WMA
 - (i)(1) delete text as indicated
 - (iii)(2)(a) delete text as indicated
 - (h) Santee WMA
 - (i)(1) delete text as indicated
 - (iii)(2)(a) delete text as indicated x
 - 7. Moultrie
 - (d) North Dike WMA
 - (ii)(2) delete text as indicated
 - (e) Porcher and Hall WMAs
 - (i)(1) delete text as indicated
 - (f) Cross Station Site
 - (i)(2) delete text as indicated
 - 8. Santee Cooper WMA
 - (c)(i) delete text as indicated
 - 10. Bear Island WMA
 - (b)(i) delete text as indicated
 - 11. Donnelley WMA
 - (b)(i) delete text as indicated
 - 12. Hatchery WMA
 - (a)(i) delete text as indicated
 - 13. Bonneau Ferry WMA
 - (b)(i)(1) delete text as indicated
 - (c)(i)(1) delete text as indicated
 - 14. Santee Coastal Reserve WMA
 - (a)(i) delete text as indicated
 - 15. Dungannon Heritage Preserve WMA
 - (a)(i) delete text as indicated
 - 16. Edisto River WMA
 - (a)(i) delete text as indicated

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18. Palachucola WMA
 - (b)(i) delete text as indicated
19. St. Helena Heritage Preserve WMA
 - (b)(i) delete text as indicated
20. Tillman Sand Ridge Heritage Preserve WMA
 - (a)(i) delete text as indicated
21. Victoria Bluff Heritage Preserve WMA
 - (a)(i) delete text as indicated
22. Hamilton Ridge WMA
 - (b)(i) delete text as indicated
23. Old Island Heritage Preserve WMA
 - (a)(i) delete text as indicated
24. Botany Bay Heritage Preserve WMA
 - (b)(i) delete text as indicated
26. Wateree River Heritage Preserve WMA
 - (b)(i) delete text as indicated
27. Add section with text as indicated
 - (a) add section with text as indicated
 - (b) add section with text as indicated
 - (b)(i) add section with text as indicated
- D. Game Zone 4
 1. Other WMAs
 - (a)(i) delete text as indicated
 2. Marsh WMA
 - (c)(i) delete text as indicated
 3. Sand Hills State Forest WMA
 - (b)(i) delete text as indicated
 4. McBee WMA
 - (a)(i) delete text as indicated
 5. Pee Dee Station Site WMA
 - (b)(i) delete text as indicated
 6. Woodbury WMA
 - (c)(i) delete text as indicated
 7. Little Pee Dee Complex WMA
 - (b)(i) delete text as indicated
 - (d)(i) delete text and insert new text as indicated
 - (i) add section with text as indicated
 - (i)(i) add section with text as indicated
 8. Great Pee Dee Heritage Preserve WMA
 - (c)(i) delete text as indicated
 9. Longleaf Pine Heritage Preserve WMA
 - (a)(i) delete text as indicated

 10. Manchester State Forest WMA
 - (b)(i) delete text as indicated
 12. Hickory Top WMA
 - (b)(i) delete text as indicated
 13. Oak Lea WMA
 - (b)(i) delete text as indicated
 14. Santee Dam WMA
 - (a)(i) delete text as indicated
 15. Wee Tee WMA
 - (a)(i) delete text as indicated
 - (g) add section with text as indicated

- (g)(i) add section with text as indicated
- 16. Santee Delta WMA
 - (a)(i) delete text as indicated
- 17. Samworth WMA
 - (a)(i) delete text as indicated
- 18. Cartwheel Bay Heritage Preserve WMA
 - (a)(i) delete text and add new text as indicated
 - (c) add section with text as indicated
 - (c)(i) add section with text as indicated
- 19. Lewis Ocean Bay Heritage Preserve WMA
 - (b)(i) delete text as indicated
 - (d)(i) delete text and add new text as indicated
 - (f) add section with text as indicated
 - (f)(i) add section with text as indicated
- 20. Waccamaw River Heritage Preserve WMA
 - (a)(i) delete text as indicated
 - (c)(i) delete text and add new text as indicated
 - (g) add section with text as indicated
 - (g)(i) add section with text as indicated
- 21. Liberty Hill WMA
 - (b)(i) delete text as indicated
- 2.10. add text as indicated
- 2.17. add text as indicated
- 4.3. delete text as indicated
- 4.4. delete text and add new text as indicated
 - (c) delete text and add new text as indicated
- 4.5. delete text as indicated
- 4.6. delete text as indicated
- 4.7. add text as indicted
- 5.2. add new text as indicated
- Add Section 12 – Public Bird Dog Training Areas
 - 12.1. add section with text as indicated
 - 12.2. add section with text as indicated
 - 12.3. add section with text as indicated.
 - 12.4. add section with text as indicated
- 123-51. Turkey Hunting Rules and Seasons
 - E. add text as indicated
 - 1. delete text and add new text as indicated
 - (a) delete text and add new text as indicated
 - (b) delete text and add new text as indicated
 - 2. (e) Clarifies tagging requirement for turkeys.
- 123-52. delete text and add new text as indicated
 - 4. delete text and add new text as indicated
 - 7. add new text as indicated
- 123-53. Bear Hunting Rules and Seasons
 - 1. delete text and add new text as indicated
 - 2. add new text as indicated
 - 3. delete text and add new text as indicated
 - 4. delete text and add new text as indicated
 - 5. delete text and add new text as indicated

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6. delete text and add new text as indicated

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ARTICLE 3

WILDLIFE AND FRESH WATER FISHERIES DIVISION—HUNTING REGULATIONS

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

A. Game Zone 1

1. Other WMAs

- (a) Archery Hunts for Deer
 - (i) Oct. 17 – Oct. 30
- (b) Primitive Weapons for Deer
 - (i) Oct. 1 through Oct. 10
- (c) Still Gun Hunts for Deer
 - (i) Oct. 11 through Oct. 16; Oct. 31 – Jan. 1
- (d) Still Gun Hunts for Bear
 - (i) Game Zone 1 seasons and bag limits apply
- (e) Special Party Dog Hunt for Bear
 - (i) Game Zone 1 seasons and bag limits apply
- (f) Small Game
 - (i) Game Zone 1 seasons and bag limits apply
- (g) Hog Hunts with Dogs
 - (i) Jan. 2 – Jan. 10, Mar. 20 - Mar. 28

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

- (a) Archery Hunts for Deer.
 - (i) Oct. 1 – Jan. 1
- (b) Small Game
 - (i) Game Zone 1 seasons and bag limits apply

3. Stumphouse WMA

(a) In order to fish or hunt Stumphouse WMA each adult (21 or older) must have at least one youth 17 or under accompanying them. Senior Citizens over 65 years of age may fish without a youth present. No motorized vehicles or horses allowed on the property except in designated parking areas. Walk in use only.

(b) Game Zone 1 seasons and bag limits, except small game only between Thanksgiving Day and March 1.

4. Long Creek Tract

(a) Game Zone 1 seasons and bag limits, except small game only between Thanksgiving Day and Mar. 1

B. Game Zone 2

1. Other WMAs

- (a) Archery Hunts for Deer
 - (i) Sept. 15 – Sept. 30
- (b) Primitive Weapons for Deer
 - (i) Oct. 1 through Oct. 10
- (c) Still Gun Hunts for Deer

- (i) Oct. 11 through Jan. 1
- (d) Small Game
 - (i) Game Zone 2 seasons and bag limits apply
- (e) Hog Hunts with Dogs
 - (i) Jan. 2 - 10, Mar. 20 - 28

2. Keowee WMA

(a) Designated as a Quality Deer Management Area. No hunting is allowed in research and teaching areas of Keowee WMA posted with white signs except those special hunts for youth or mobility-impaired as conducted by the Department.

(b) North of Hwy 123 and west of the Keowee arm of Lake Hartwell, and west of Hwy 291, small game hunting with shotguns only. All other areas are archery only for small game.

- (c) Archery Hunts for Deer
 - (i) Oct. 15- Dec. 22
- (d) Raccoon and Opossum
 - (i) Game Zone 2 seasons and bag limits
- (e) Other Small Game
 - (i) Game Zone 2 seasons and bag limits apply.

(ii) No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.

3. Draper WMA

(a) Data cards required for hunter access, except draw dove hunts. Completed data cards must be returned daily before leaving the WMA.

- (b) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30
- (c) Primitive Weapons for Deer
 - (i) Oct. 1 - Oct. 10
- (d) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (e) Quail Hunts
 - (i) 1st and 2nd Sat. in Dec., 3rd and 4th Wed. in Dec., 1st and 2nd Wed. and Sat. in Jan.
 - (ii) Game Zone 2 bag limit
 - (iii) PM Shooting hours end 30 minutes prior to official sunset.
- (f) Rabbit Hunts
 - (i) Wed. and Sat. in Jan. and Feb. following the last scheduled quail hunt until Mar. 1
 - (ii) Game Zone 2 bag limit
- (g) Other Small Game (no fox squirrels)
 - (i) Zone 2 seasons and bag limits apply

4. Fant's Grove WMA

- (a) Designated as a Quality Deer Management Area
- (b) Archery Deer Hunts
 - (i) Oct. 15- Dec. 22
- (c) Special Gun Hunts for Deer
 - (i) Hunters selected by drawing
 - (ii) Total 1 deer, either-sex.
- (d) Raccoon and Opossum
 - (i) Game Zone 2 seasons and bag limits
- (e) Other Small Game
 - (i) Game Zone 2 seasons and bag limits apply
 - (ii) No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.
 - (iii) Waterfowl may be hunted Wed. and Sat. AM only.

5. Rock Hill Blackjacks HP WMA

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- (a) Archery Deer Hunts
 - (i) Sept. 15 – Jan. 1
- (b) Small Game
 - (i) No small game hunting

6. Belfast WMA

(a) All terrain vehicles are prohibited. Fishing is not allowed except through permitted special events. All harvested deer and turkeys must be checked in at the Belfast Check Station. Belfast WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Public visitation is not allowed during scheduled deer and turkey hunts. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Belfast WMA.

- (b) Designated as a Quality Deer Management Area.
- (c) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30
- (d) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing
- (e) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 2 bag limits

7. Broad River Waterfowl Management Area

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 31
- (b) Small Game
 - (i) Feb. 8 – Mar. 1
 - (ii) Game Zone 2 bag limits

8. McCalla WMA

- (a) Designated as a Quality Deer Management Area.
- (b) Deer Hunts
 - (i) Game Zone 2 seasons
- (c) Small Game
 - (i) Game Zone 2 seasons and bag limits apply
- (d) Hog Hunts with Dogs
 - (i) Jan. 2 - 10, Mar. 20 - 28
- (e) Special Hunt Area for Youth and Mobility Impaired Hunters
 - (i) No open season except for hunters selected by drawing
 - (ii) 1 deer per day, either-sex

9. Worth Mountain WMA

- (a) Designated as a Quality Deer Management Area
- (b) Deer Hunts

- (i) Game Zone 2 seasons
- (c) Small Game
 - (i) Game Zone 2 seasons and bag limits apply.

10. Liberty Hill WMA

- (a) Designated as a Quality Deer Management Area.
- (b) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30
- (c) Primitive Weapons for Deer
 - (i) Oct. 1 - Oct. 10
- (d) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (e) Small Game (no fox squirrels)
 - (i) Zone 2 seasons and bag limits apply.

11. Delta North WMA

- (a) Deer Hunts
 - (i) Game Zone 2 seasons
- (b) Small Game (no fox squirrels)
 - (i) Game Zone 2 seasons and bag limits apply

12. Delta South WMA

- (a) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30 .
- (b) Still Gun Hunts for Deer
 - (i) Nov. 1-Nov. 21, Wednesdays and Saturdays Only.
 - (ii) Special hunts for youth or mobility impaired hunters as published by SCDNR.
- (c) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 2 bag limits

13. Forty Acre Rock HP WMA

- (a) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30
- (b) Primitive Weapons for Deer
 - (i) Oct. 1 - Oct. 10
- (c) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (d) Small Game (no fox squirrels)
 - (i) Game Zone 2 seasons and bag limits apply

C. Game Zone 3

1. Other WMAs

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Sept. 30
- (b) Still Gun Hunts for Deer
 - (i) Oct. 1 - Jan. 1
- (c) Small Game
 - (i) Game Zone 3 seasons and bag limits apply

2. Crackerneck WMA and Ecological Reserve

(a) All individuals must sign in and out at main gate. Designated as a Quality Deer Management Area. Scouting seasons (no weapons), will be Saturdays only during September, March, and May. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct.,4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. On all raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

- (b) Archery Deer Hunts
 - (i) 1st Fri. and Sat. in Oct
 - (ii) 2 deer, either-sex, no more than 1 buck.
- (c) Primitive Weapons Deer Hunts (no buckshot).
 - (i) 2nd Fri. and Sat. in Oct.
 - (ii) 2 deer, either-sex, no more than 1 buck
- (d) Still Gun Hunts for Deer
 - (i) 3rd Fri. in Oct. – Jan. 1, Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
 - (ii) 5 deer total, 2 per day, buck only except on either-sex days Fri. and Sat. only from the 1st Fri. of gun hunts before Thanksgiving and the 1st Fri. and Sat. after Thanksgiving weekend. Total not to include more than 3 bucks.
- (e) Raccoon and Opossum
 - (i) 3rd Sat. night in Oct. – Jan. 1, Sat. nights only, except closed Dec. 25, 1st Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.

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- (ii) 3 raccoons per party per night
- (f) Hog Hunts with Dogs (handguns only)
 - (i) 1st Fri. after Jan. 1 – last Fri. in Feb. Fridays only
 - (ii) No limit.
- (g) Other Small Game (except no open season on bobcats, foxes, otters or fox squirrels).
 - (i) 3rd Fri. in Oct. – last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
 - (ii) Game Zone 3 bag limits

3. Aiken Gopher Tortoise Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Sept. 30
- (b) Still Gun Hunts for Deer
 - (i) Oct. 1 – Jan. 1.
- (c) Small Game (no fox squirrels).
 - (i) Thanksgiving day – Mar. 1.
 - (ii) Game Zone 3 bag limits.

4. Ditch Pond Heritage Preserve WMA

- (a) Archery Deer Hunts.
 - (i) Sept. 15 – Jan. 1
- (b) Small Game (no fox squirrels).
 - (i) Thanksgiving day – Mar. 1.
 - (ii) Game Zone 3 bag limits.

5. Henderson Heritage Preserve WMA

- (a) Archery Deer Hunts.
 - (i) Sept. 15 – Jan. 1

6. Francis Marion National Forest

(a) During deer hunts when dogs are used, buckshot only is permitted. On hunts with dogs, all deer must be checked in by one hour after legal sunset. Individual antlerless deer tags are not valid during dog hunts for deer. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. No fox or coyote hunting with dogs on the Francis Marion.

- (b) Hog Hunts with Dogs
 - (i) 3rd full week in Mar., 3rd full week in May
- (c) Still Hog Hunts
 - (i) First full week in Mar.
- (d) Hellhole WMA
 - (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10
 - (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts

(iii) Deer Hunts with Dogs (shotguns only)

(1) 1st Sat. in Nov., 1st Sat. in Dec.

(a) 2 deer per day, buck only

(iv) Youth Only Deer Hunt with Dogs

(1) Sat. following the 2-day Wambaw buck only hunt in Nov.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.

(v) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(e) Waterhorn WMA

- (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10
- (ii) Muzzleloader Hunts for Deer

- (1) Oct. 11 - Oct. 20
- (iii) Still Gun Hunts for Deer
 - (1) Every Friday and Saturday beginning Nov. 1.
- (iv) Small Game (no open season for fox hunting)
 - (1) Game Zone 3 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.

(f) Wambaw WMA

- (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10
- (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts west of Hwy 17.
 - (2) Still gun hunts only East of Hwy 17. No buckshot.
- (iii) Deer Hunts with Dogs (shotguns only)
 - (1) Fri. in Sept. before the last Sat. Northampton dog hunt, Wed. and Thurs. before the 3rd Sat. in Nov. and 2nd Sat. in Oct., first 2 days excluding Sunday after Dec. 25
 - (a) 2 deer per day, buck only
 - (2) 2nd Sat. in Dec.
 - (a) 1 deer per day
 - (b) All deer must be checked in at designated check stations.
- (iv) Youth Only Deer Hunt with Dogs
 - (1) 1st date specific either-sex day in November.
 - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
- (v) Seewee Special Use Area
 - (1) Archery Deer Hunts
 - (2) Sept. 15 – Jan. 1
- (vi) Small Game (no open season for fox hunting)
 - (1) Game Zone 3 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(g) Northampton WMA

- (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10
- (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts.
- (iii) Deer Hunts with Dogs (shotguns only)
 - (1) Last Sat. in Sept., Wed. and Thurs. before the 2nd Sat. in Oct., Fri. before the 4th Sat. in Nov., 3rd day excluding Sunday after Dec. 25
 - (a) 2 deer per day, buck only
 - (2) 2nd Sat. in Dec.
 - (a) 1 deer per day
 - (b) All deer must be checked in at designated check stations.
- (iv) Youth Only Deer Hunt with Dogs
 - (1) Last Saturday in Nov.
 - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
- (v) Small Game (no open season for fox hunting)
 - (1) Game Zone 3 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(h) Santee WMA

- (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10

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- (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts
- (iii) Deer Hunts with Dogs (shotguns only)
 - (1) 2nd Fri. and Sat. in Sept., Wed. and Thurs. before the 4th Sat. in Oct., 1st Fri. in Dec.
 - (a) 2 deer per day, buck only
 - (2) 2nd Sat. in Dec.
 - (a) 1 deer per day
 - (b) All deer must be checked in at designated check stations.
- (iv) Youth Only Deer Hunt with Dogs
 - (1) 3rd Sat. in Oct.
 - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
- (v) Small Game (no open season for fox hunting)
 - (1) Game Zone 3 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

7. Moultrie

(a) No hunting or shooting within fifty feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts.

(b) Bluefield WMA

(i) Open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth are allowed to carry a weapon and hunt.

(ii) Still Gun Hunts for Deer

- (1) Sept. 15 – Jan. 1, Wed. and Sat. only

(iii) Small Game (no fox squirrels)

- (1) Game Zone 3 seasons and bag limits apply.
- (2) No small game hunting during scheduled deer hunts.

(c) Greenfield WMA

(i) Still Gun Hunts for Deer

- (1) Sept. 15 – Jan. 1

(ii) Small Game (no fox squirrels)

- (1) Thanksgiving Day - Mar. 1
- (2) Game Zone 3 bag limits

(d) North Dike WMA

(i) Still Gun Hunts for Deer

- (1) Sept. 15 - Oct. 15.

(ii) Special Gun Hunts for youth and women

- (1) Hunters selected by drawing.
- (2) 1 deer per day

(iii) Small Game (no fox squirrels)

- (1) Jan. 2 - Mar. 1

- (2) Game Zone 3 bag limits.

- (3) Sandy Beach Waterfowl Area open for raccoon hunting Feb. 1 – Mar. 1

(e) Porcher and Hall WMAs

(i) Archery Deer Hunts

- (1) Sept. 15 – Jan. 1

(ii) Small Game (no fox squirrels) shotguns only

- (1) Jan. 2 – Mar. 1
- (2) Game Zone 3 bag limits

(f) Cross Station Site

(i) Special Gun Hunts for youth and women

- (1) No open season except hunters selected by drawing
- (2) 1 deer per day

8. Santee Cooper WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. Hunters limited to two deer/tree stands which must contain a label with the hunter's name and address. No stands may be placed on Santee Cooper WMA prior to Sept. 1. Campground is open during scheduled deer hunts only.

- (b) Designated as a Quality Deer Management Area
- (c) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31
- (d) Primitive Weapons Deer Hunts
 - (i) Nov. 1 - Monday before Thanksgiving Day
- (e) Small Game
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 3 bag limits

9. Webb WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving. Designated as a Quality Deer Management Area.

- (b) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing
 - (ii) 2 deer, either-sex but only 1 buck
- (c) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, and last Thurs. - Sat. in August
- (d) Quail Hunts
 - (i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
 - (ii) Game Zone 3 bag limit
 - (iii) Shooting hours end 30 minutes prior to official sunset
- (e) Raccoon and Opossum
 - (i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1
 - (ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
 - (iii) Game Zone 3 bag limits
- (f) Other Small Game (no fox squirrels)
 - (i) The full week of Thanksgiving, Dec. 15 - Mar. 1
 - (ii) Game Zone 3 bag limits
- (g) Dove Hunting
 - (i) Designated public dove field only on specified days.

10. Bear Island WMA

(a) All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only. Designated as a Quality Deer Management Area.

- (b) Archery Deer Hunts
 - (i) Oct. 1 - Oct. 10

- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing
 - (ii) 3 deer, either-sex but only 1 buck
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in March
- (e) Alligator Hunts (Bear Island East and West Units only)
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed.
- (f) Small Game
 - (i) Feb. 8 - Mar. 1
 - (ii) Game Zone 3 bag limits

11. Donnelley WMA

(a) All hunters must sign in and out at the check station. Hunting in designated areas only. Designated as a Quality Deer Management Area.

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- (b) Archery Deer Hunts
 - (i) Sept. 15 - Sept. 30
- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing
 - (ii) 3 deer, either-sex but only 1 buck
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in March
- (e) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 3 bag limits

12. Hatchery WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1

13. Bonneau Ferry WMA

(a) All terrain vehicles prohibited. Hunting access by boat is prohibited. For hunting, the Adult/youth side is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game, regulations for the adult/youth and general use sides of the property will alternate each year as prescribed by the Department. All hunters must sign in and sign out upon entering or leaving. All deer must be checked out at the main entrance. Closed to public access one hour after sunset until one hour before sunrise except for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Feb. 8 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts. No fox hunting.

(b) Adult/Youth Side

(i) Still Gun Hunts for Deer

(1) Sept. 15 – Jan. 1, Wed., Fri. and Sat., entire week of Thanksgiving and 5 days before Christmas until Jan. 1

(c) General Use Side

(i) Archery Deer Hunts

(1) Sept. 15 - Sept. 30

(ii) Still Gun Hunts for Deer

(1) Hunters selected by drawing

(2) Total 3 deer, either-sex except only 1 buck.

(3) Hunters are required to have permit in possession and must sign in and out (Name, permit # and deer killed each day).

(d) Small Game (no fox squirrels or fox)

(i) Jan. 2 – Mar. 1

(ii) Game Zone 3 bag limits

(iii) Dogs allowed during gun seasons only

(e) Bonneau Ferry Fishing Regulations

(i) Open to fishing on Thurs. through Sun. from Mar. 2 – Oct. 31 during daylight hours only

(ii) Adult/youth fishing only. Each youth (17 years and under) must be accompanied by no more than two adults 18 years of age or older.

(iii) The youth must actively fish.

(iv) Fishing is not allowed during scheduled deer and turkey hunts.

(v) Only electric motors may be used.

(vi) Creel limits per person per day are: largemouth bass – 2, panfish (bluegill, redear, crappie, pumpkinseed, redbreast) – 10, catfish – 5, species not listed – no limit. Grass carp must be released alive immediately.

14. Santee Coastal Reserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1

- (ii) Hunting on mainland only
- (b) Hog Hunts with Dogs
 - (i) 2nd full week in March
- (c) Alligator Hunts
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed
- (d) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 3 bag limits

15. Dungannon Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1
- (b) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Jan. 31
 - (ii) Game Zone 3 bag limits

16. Edisto River WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (b) Still Gun Hunts for Deer
 - (i) Oct. 11 – Jan. 1
- (c) Raccoon and Opossum
 - (i) Game Zone 3 seasons and bag limits
- (d) Other Small Game
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 3 bag limits

17. Canal WMA

- (a) Quail Hunts
 - (i) Game Zone 3 season and bag limit

18. Palachucola WMA

- (a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.
- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10
- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing
 - (ii) 3 deer, either-sex but only 1 buck
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, and last Thurs. - Sat. in August

- (e) Quail Hunts
 - (i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
 - (ii) Game Zone 3 bag limit
 - (iii) Shooting hours end 30 minutes prior to official sunset.
- (f) Raccoon and Opossum
 - (i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1
 - (ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
 - (iii) Game Zone 3 bag limits
- (g) Other Small Game (no fox squirrels)
 - (i) The full week of Thanksgiving, Dec. 15 - Mar. 1
 - (ii) Game Zone 3 bag limits

19. St. Helena Sound Heritage Preserve WMA

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(a) Deer hunting by permit only obtained at McKenzie Field Station. Camping by special permit only and on Otter Island only. No small game hunting.

(b) Ashe, Beet, Warren, Otter, Big and South Williman Archery Deer Hunts

(i) Sept. 15 – Jan. 1

20. Tillman Sand Ridge Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(b) Small Game (no fox squirrels)

(i) Thanksgiving Day - Mar. 1

(ii) Game Zone 3 bag limits

21. Victoria Bluff Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(b) Small Game (no fox squirrels)

(i) Jan. 2 - Mar. 1

(ii) Game Zone 3 bag limits

(iii) Shotguns only

22. Hamilton Ridge WMA

(a) Designated as a Quality Deer Management Area. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) 3 deer, either-sex but only 1 buck

(d) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, and last Thurs. - Sat. in August.

(e) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Game Zone 3 bag limit

(iii) Shooting hours end 30 minutes prior to official sunset.

(f) Raccoon and Opossum

(i) Tues. nights and Sat. nights between Oct. 11 – Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15- Mar. 1

(ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.

(iii) Game Zone 3 bag limits

(g) Other Small Game (no fox squirrels)

(i) The full week of Thanksgiving, Dec. 15 - Mar. 1.

(ii) Game Zone 3 bag limits

(iii) Dove hunting on designated public dove field only

23. Old Island Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Jan. 1

24. Botany Bay Plantation Heritage Preserve WMA

(a) Designated as a Quality Deer Management Area. All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10, Mon. – Sat. during the week of Thanksgiving, Mon. – Sat. during the week of Christmas.

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) Total 3 deer, either-sex but only 1 buck

(iii) Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

(d) Small Game (no fox squirrels or foxes)

(i) Jan. 2 – Mar. 1 (Wed. through Sat. only)

(ii) Game Zone 3 bag limits

(iii) Dogs allowed during gun seasons only

25. Congaree Bluffs Heritage Preserve WMA

(a) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) Total 1 deer per day, either-sex

26. Wateree River Heritage Preserve WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) 3 deer, either-sex but only 1 buck

(d) Small Game (no fox squirrels)

(i) Jan. 2 - Mar. 1

(ii) Game Zone 3 bag limits.

27. South Fenwick Island

(a) Deer hunting by permit only. Primitive camping is allowed by permit within designated areas. Permits available from DNR through the McKenzie Field Station. Property is closed to other users during scheduled deer hunts.

(b) Archery Deer Hunts

(i) October 1-10

D. Game Zone 4

1. Other WMAs

(a) Archery Deer Hunts.

(i) Sept. 15 - Oct. 10

(b) Still Gun Hunts for Deer

(i) Oct. 11 – Jan. 1

(c) Small Game

(i) Game Zone 4 seasons and bag limits apply

2. Marsh WMA

(a) All visitors to Marsh WMA are required to sign in upon entry to the WMA and sign out upon exit from the WMA and provide any additional information requested. No ATVs allowed.

(b) Special Hunt Area for Youth and Mobility Impaired Hunters

(i) No open season except for hunters selected by drawing

(ii) 1 deer per day, either-sex

(c) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(d) Still Gun Hunts for Deer

(i) Nov. 1 - Nov. 30

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- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May
- (g) Raccoon and Opossum Hunts
 - (i) Game Zone 4 seasons and bag limits
- (h) Small Game (no fox squirrels)
 - (i) Thanksgiving – Mar. 1
 - (ii) Game Zone 4 bag limits

3. Sand Hills State Forest WMA

(a) Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man-drives allowed.

- (b) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (c) Still Gun Hunts for Deer
 - (i) Oct. 11 – Jan. 1
- (d) Small Game
 - (i) Game Zones 4 seasons and bag limits apply. No daytime fox hunting from Sept. 15 – Jan. 1

4. McBee WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (b) Still Gun Hunts for Deer.
 - (i) Oct. 11 - Saturday before Thanksgiving
- (c) Quail
 - (i) no open season except hunter selected by drawing. Game Zone 4 bag limit.
- (d) Other Small Game (no fox squirrels)
 - (i) Jan. 15 - Mar. 1
 - (ii) Game Zone 4 bag limits

5. Pee Dee Station Site WMA

(a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31
- (c) Primitive Weapons Deer Hunts
 - (i) Nov. 1 - Nov. 30
- (d) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits

6. Woodbury WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

- (b) Designated as a Quality Deer Management Area
- (c) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (d) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20
- (e) Still Gun Hunts for Deer
 - (i) Oct. 21 - Jan. 1
- (f) Still Hog Hunts
 - (i) First full week in Mar.
- (g) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May

- (h) Raccoon and opossum
 - (i) Game Zone 4 seasons and bag limits
- (i) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits

7. Little Pee Dee Complex WMA

(a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunters Island and Huggins tracts in Horry Co. which are part of Dargan HP.

- (b) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (c) Primitive Weapons Deer Hunts
 - (i) Oct. 11 – Oct. 20.
- (d) Still Gun Hunts for Deer
 - (i) Oct. 21 - Jan. 1.
- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (g) Raccoon and Opossum
 - (i) Game Zone 4 seasons and bag limits
- (h) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 4 bag limits
- (i) Bear Season
 - (i) October 17 – October 30

8. Great Pee Dee Heritage Preserve WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

(b) For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset.

- (c) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31
- (d) Still Gun Hunts for Deer
 - (i) Nov. 1 - Nov. 30
- (e) Still Hog Hunts
 - (i) First full week in March
- (f) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May

- (g) Raccoon and Opossum
 - (i) Game Zone 4 seasons and bag limits
- (h) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day to Mar. 1
 - (ii) Game Zone 4 bag limits.

9. Longleaf Pine Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10
- (b) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (c) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 4 bag limits.

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10. Manchester State Forest WMA

(a) Deer must be checked at designated check stations. Individual antlerless deer tags are not valid during dog hunts for deer.

(b) Archery Deer Hunts

(i) 3rd Mon. in Sept. – the following Sat.

(c) Primitive Weapons Deer Hunts

(i) 4th Mon. in Sept. – following Sat.

(d) Deer Hunts with Dogs

(i) Clubs selected by drawing.

(ii) 10 antlered deer per day per club, 5 antlerless deer per day per club, 1 deer per person.

(e) Still Gun Hunts for Deer

(i) 5th Mon. in Sept. – following Sat., 1st Mon. in Oct. – following Sat., 2nd Mon. in Oct. – following Sat., 3rd Tues. in Oct. – following Fri., 4th Tues. in Oct. – following Fri., 5th Tues. in Oct. – following Thurs., 1st Tues. in Nov. – following Fri., 2nd Tues. in Nov. – following Sat., 3rd Tues. in Nov. – following Fri., Mon. – Sat. the week of Thanksgiving, 4th Mon. in Nov. – following Fri., 1st Tues. in Dec. – following Fri., 1st full week following the 1st Tues. in Dec. – following Fri., 2nd full week following the 1st Tues. in Dec. – following Fri., 3rd full week following 1st Tues. in Dec. – following Sat.

(ii) In years when there is a fifth Tues. in Oct., additional deer hunts may be scheduled on Fri. and Sat. during Oct. and Nov.

(iii) In years when there is a fifth Mon. in Dec., additional hunts may be scheduled that week.

(f) Small Game

(i) Thanksgiving Day – Mar. 1.

(ii) Game Zone 4 bag limits.

(g) Hog Hunts with Dogs

(i) 2nd full week in Mar.

11. Lynchburg Savanna Heritage Preserve WMA

(a) Small Game Only (no fox squirrels)

(i) Game Zone 4 seasons and bag limits

12. Hickory Top WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(c) Primitive Weapons Deer Hunts

(i) Nov. 1 – Jan. 1

(d) Hog Hunts with Dogs

(i) 2nd full week in Mar.

(e) Small Game (no fox squirrels)

(i) Game Zone 4 seasons and bag limits apply.

13. Oak Lea WMA

(a) Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving the WMA.

(b) Archery Deer Hunts

(i) Sept. 15 - 30

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing

(ii) Total 20 deer per hunt party, either-sex

(d) Small Game (except quail)

(i) Jan. 2 – Mar. 1 except no small game hunting during scheduled quail hunts

(ii) Game Zone 4 bag limits

(e) Quail

(i) Designated dates within Game Zone 5 season

- (ii) Game Zone 4 bag limit

14. Santee Dam WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31
- (b) Primitive Weapons Deer Hunts
 - (i) Nov. 1 – Jan. 1
- (c) Hog Hunts with Dogs
 - (i) 2nd full week in March
- (d) Small Game (no fox squirrels)
 - (i) Jan. 2 – Mar. 1
 - (ii) Game Zone 4 bag limits

15. Wee Tee WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10
- (b) Still Gun Hunts for Deer
 - (i) Oct. 11 – Jan. 1
- (c) Still Hog Hunts
 - (i) First full week in March
- (d) Hog Hunts with Dogs
 - (i) 2nd full week in March
- (e) Raccoon and Opossum
 - (i) Game Zone 4 seasons and bag limits
- (f) Other Small Game (no fox squirrels, no fox hunting)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits
 - (iii) Dogs allowed during small game gun season only
- (g) Bear Season
 - (i) October 17 – October 30

16. Santee Delta WMA

- (a) Archery Deer Hunts (impoundments only)
 - (i) Sept. 15 - Oct. 10
- (b) Hog Hunts with Dogs
 - (i) 2nd full week in Mar. (impoundments only)

17. Samworth WMA

- (a) Archery Deer Hunts (impoundments only)
 - (i) Sept. 15 - Oct. 10
- (b) Hog Hunts with Dogs
 - (i) 2nd full week of Mar. (impoundments only)

18. Cartwheel Bay Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Jan. 1
- (b) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits
- (c) Bear Season
 - (i) October 17 – October 30

19. Lewis Ocean Bay Heritage Preserve WMA

- (a) All deer hunters must sign in and sign out daily and record harvest at the kiosk.
- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10
- (c) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20

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- (d) Still Gun Hunts for Deer
 - (i) Oct. 21 - Jan. 1.
- (e) Small Game (no fox squirrels).
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 4 bag limits
- (f) Bear Season
 - (i) October 17 – October 30

20. Waccamaw River Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10
- (b) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20
- (c) Still Gun Hunts for Deer
 - (i) Oct. 21 - Jan. 1
- (d) Still Hog Hunts
 - (i) First full week in March
- (e) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (f) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 4 bag limits
- (g) Bear Season
 - (i) October 17 – October 30

21. Liberty Hill WMA

- (a) Designated as a Quality Deer Management Area
- (b) Archery Hunts for Deer
 - (i) Sept. 15 - Sept. 30
- (c) Primitive Weapons for Deer
 - (i) Oct. 1 - Oct. 10
- (d) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (e) Small Game (No fox squirrels)
 - (i) Zone 4 seasons and bag limits apply.

GENERAL REGULATIONS

2.1 Except as provided in these regulations, no person may hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) as Wildlife Management Area (WMA) lands.

2.2 Entry onto WMA land is done wholly and completely at the risk of the individual. Neither the landowners nor the State of South Carolina nor the South Carolina Department of Natural Resources accepts any

responsibility for acts, omissions, or activities or conditions on these lands which cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 No person may hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license, a valid WMA permit, and other applicable federal or state permits, stamps or licenses.

2.5 No Sunday hunting is permitted on any WMA lands.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, “bait” or “baiting” means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. “Baited area” means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands, construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands are permitted provided they

are not permanently affixed or embedded in the tree. All stands and temporary climbing devices must be removed by the end of the deer hunting season.

2.8 On WMA lands, any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older). Sight and voice contact must be maintained.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special hunts on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department. This regulation does not apply on designated Public Bird Dog Training Areas where pen raised quail and pigeons may be released.

2.11 While participating in a hunt on WMAs, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during the designated statewide youth deer hunt day, only still hunting is allowed. The limit is two deer total to include no more than one antlerless deer.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

2.14 On WMA lands, hunting armadillos and coyotes at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours with no bag limit. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

2.15 On WMA lands during special designated hunts, a WMA may be closed to other public access.

2.16 Still hunting for hogs is permitted on WMAs during any open season for game during daylight hours with only the weapons allowed during the hunting season in progress unless otherwise prohibited. No hog may be transported alive from a WMA. Hogs may not be hunted at night. There is no bag limit on hogs. Hunters must wear a hat, coat, or vest of solid international orange while hog hunting. Buckshot is prohibited. During hog hunts with dogs, no still or stalk hunting is allowed and only handguns are permitted. No hog hunting with dogs is allowed except during special designated seasons.

2.17 Unless otherwise specified, small game hunting seasons and bag limits on WMA lands are the same as Game Zone seasons and bag limits except no hunting before Sept. 1 or after Mar. 1. The season for hunting beavers on WMA lands shall be October 1 through March 1.

WEAPONS

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow, crossbow or hand gun except that specific weapons may be prohibited on certain hunts. Blow guns, dart guns, drugged arrows or arrows with exploding tips are not permitted. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small

game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.).

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

3.3 On WMA lands big game hunters are not allowed to use armor-piercing, tracer, incendiary, or full metal jacket bullets or .22 or smaller rimfire. Buckshot is prohibited during still gun hunts for deer on WMA lands in Game Zones 3 & 4.

3.4 On WMAs all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle, rimfire rifle or pistol with a shell in the chamber or magazine, or a muzzleloader with a cap on the nipple or a flintlock with powder in the flash pan is considered loaded.

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3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day.

4.2 Unless otherwise specified by the Department, only antlered bucks (male deer) may be taken on all WMA lands. Male deer with visible antlers of less than two (2) inches above the hairline are considered antlerless deer and must be tagged with an antlerless deer tag issued by the Department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection.

4.3 On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons.

4.4 Date Specific Antlerless Deer Tag Dates, Individual Antlerless Deer Tags, and Deer Limits on WMAs:

(a) Game Zone 1: The last three Sat. in Nov.

(b) Game Zones 2 – 4: The first three Saturdays in Oct., the last three Saturdays in November, the 2nd Saturday in December, and Jan. 1.

(c) In all Game Zones, beginning September 15 during archery only or primitive weapons seasons, hunters who harvest a deer using archery equipment only may choose to use any of the Date-Specific Antlerless Deer Tags issued to them to tag an antlerless deer taken provided that the archery notation and actual date of kill is validated on the tag as prescribed by SCDNR. Archery hunters may also use Individual Antlerless Deer Tags issued to them to tag an antlerless deer taken during any archery-only or primitive weapons season only provided that the tag is validated as prescribed by SCDNR. Game Zone and WMA limits apply.

(d) On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take two deer total.

4.5 For all WMAs combined statewide, the limit for all seasons and methods combined is two deer per day, 5 deer total, no more than two bucks, unless otherwise specified. For WMAs in Game Zone 1, the limit for antlerless deer for all seasons and methods combined is 4. Antlerless deer limit is two deer per day, unless otherwise specified.

4.6 Individual Antlerless Deer Tags are valid in Game Zone 1 beginning Oct. 1 and in Game Zones 2, 3 & 4 beginning Sept. 15. For all WMAs combined, a maximum of 2 individual antlerless deer tags may be used during primitive weapons or still gun deer seasons in all Game Zones except only one individual antlerless deer tag

may be used in Game Zone 1. Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

4.7 Deer must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR. A valid tag must remain on the carcass until it is processed (cut up).

4.8 For WMAs designated as Quality Deer Management Areas, all antlered bucks must have a minimum 4 points on one side or a minimum 12-inch inside antler spread except during designated special youth hunts. Inside antler spread is measured at a right angle to centerline of the skull at its widest point between the main beams.

4.9 On WMA lands, deer, hogs, or bear may not be hunted with a firearm within 300 yards of a residence.

DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 Dogs may be trained for quail, rabbit and squirrel hunting from Sept. 1 - 14 (no guns), except on designated Public Bird Dog Training Areas where bird dog training is allowed from September 15 to March 15 (Sundays excluded).

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 Unless otherwise specified, deer hunting with dogs on WMA lands is prohibited. The Department may permit deer hunting with dogs on WMA lands not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle unless permitted by the Department.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 A person may not obstruct or cause to be obstructed travel routes on WMA lands.

VISIBLE COLOR CLOTHING

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange. Archery hunters during archery only deer seasons and hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

TRAPPING

9.1 Trapping on WMA lands is not permitted.

WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only portable blinds which are removed at the conclusion of the hunt or temporary blinds of native vegetation may be used. Temporary blinds once vacated may be used by other hunters.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category I Designated Waterfowl Area during scheduled waterfowl hunts.

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10.6 The Bordeaux Work Center Area is closed to hunting except for special hunts as designated by the SCDNR.

10.7 Impoundments on Bear Island, Bonneau Ferry, Broad River, Donnelley, Samworth, Sandy Beach, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period Nov. 1 - Feb. 8 except during special hunts designated by the Department. All public access during the period Feb. 9 - Oct. 31 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 - Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.8 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.9 On Hatchery WMA, hunters must leave the area by 1 PM, except on the last Saturday of the waterfowl season when hunters may hunt until sunset. Each hunter is limited to twenty-five Federally-approved nontoxic shot shells per hunt. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period Nov. 15 - Jan. 31. No fishing allowed during scheduled waterfowl hunts.

10.10 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed.

10.11 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, Wateree River Heritage Preserve and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.12 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Santee Cooper and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

1. Biedler Impoundment

- (a) Sat. AM only during regular season
- (b) State bag limits

2. Bear Island

- (a) Hunters selected by drawing during regular season
- (b) State bag limits

3. Beaverdam

- (a) Hunters selected by drawing during regular season
- (b) State bag limits

4. Bonneau Ferry

- (a) Hunters selected by drawing during regular season
- (b) State bag limits

5. Broad River

- (a) Hunters selected by drawing during regular season
- (b) State bag limits

6 Carr Creek (bounded by Samworth WMA, no hunting in impoundments)

- (a) Wed. and Sat. AM only during regular season
- (b) State bag limits

7. Little Carr Creek (bounded by Samworth WMA, no hunting in impoundments)

- (a) Wed. and Sat. AM only during regular season

- (b) State bag limits
- 8. Clemson
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 9. Ditch Pond
 - (a) Wed. AM only during regular season
 - (b) State bag limits
- 10. Donnelley
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 11. Dunaway
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 12. Duncan Creek
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 13. Dungannon
 - (a) Wed. AM only during regular season
 - (b) State bag limits
 - (c) No hunting from the Boardwalk
- 14. Enoree River
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 15. Hatchery
 - (a) Sat. AM only and until sunset on the last Sat. of the regular waterfowl season
 - (b) State bag limits
- 16. Hickory Top
 - (a) Mon. through Sat. during regular season
 - (b) State bag limits
- 17. Hickory Top Greentree Reservoir
 - (a) Sat. AM only during regular season
 - (b) State bag limits
 - (c) No hunting from roads and dikes
- 18. Lake Cunningham
 - (a) Wed. AM only during the regular season
 - (b) State bag limits

- 19. Lancaster Reservoir
 - (a) Mon. and Fri. AM only during the regular season
 - (b) State bag limits
- 20. Marsh
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 21. Monticello Reservoir
 - (a) Mon. through Sat. AM only during regular season
 - (b) State bag limits
- 22. Moultrie
 - (a) Mon. through Sat. during regular season.
 - (b) State bag limits
- 23. Parr Reservoir
 - (a) Mon. through Sat. during regular season.
 - (b) State bag limits
- 24. Potato Creek Hatchery

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- (a) Fri. and Sat. only during regular season
- (b) State bag limits
- 25. Russell Creek
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
- 26. Sampson Island Unit (Bear Island)
 - (a) Thurs. and Sat. AM only during the regular season
 - (b) State bag limits
- 27. Samworth
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 28. Sandy Beach
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 29. Santee Coastal Reserve
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 30. Santee Cooper
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 31. Santee-Delta
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 32. Tibwin
 - (a) Special hunts by drawing during regular season
 - (b) State bag limits
- 33. Turtle Island
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 34. Tyger River
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 35. Wee Tee
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 36. Woodbury
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 37. Great Pee Dee
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 38. Little Pee Dee River Complex
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 39. Waccamaw River HP
 - (a) Fri. and Sat. AM only during regular season
 - (b) State bag limits
- 40. 40-acre Rock
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 41. Wateree River HP
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits

10.13 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area (WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit. A WMA permit is required for waterfowl hunting in the Hickory Top Greentree Reservoir.

10.14 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

10.15 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.16 On all State-owned, US Forest Service and other Federally-owned Category I and II Waterfowl Management Areas each hunter is limited to 25 Federally-approved non-toxic shells per hunt.

10.17 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.18 Woodbury Waterfowl Management Area includes all SCDNR-owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department-owned Wildlife Management Areas without written permission of the Department.

PUBLIC BIRD DOG TRAINING AREAS

12.1 The Department may establish Public Bird Dog Training Areas on designated portions of the Cliff Pitts WMA in Laurens County, the Campbell's Crossroads and Angelus Tract WMAs in Chesterfield County, the Landsford Canal WMA in Chester County, and the Edisto River WMA in Dorchester County. A valid hunting license and WMA permit is required to train bird dogs on these lands.

12.2 It shall be unlawful to take game by any means while training bird dogs, except during the lawful open seasons for such game; provided, however, that pen raised quail or pigeons may be taken at any time for training bird dogs. The dog trainer must possess proof of purchase of pen raised quail.

12.3 It shall be unlawful for any person to have in his or her possession any firearms or other equipment for taking game while training bird dogs, provided that handguns with blank ammunition or shot cartridges may be used for training bird dogs, and shotguns with number eight shot or smaller shot may be used while training bird dogs using pen raised quail and pigeons.

12.4 All participants in bird dog training must wear either a hat, coat, or vest of solid visible international orange.

SUBARTICLE 3

OTHER BIG GAME

123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 3 turkeys statewide per person, 2 per day, gobblers only, unless otherwise specified. Total statewide limit includes turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and bag limits for Wildlife Management Area lands are as follows:

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A. Game Zone 1

1. Other WMAs
 - (a) Apr. 1 – May 5
 - (b) Bag limit 3

B. Game Zone 2

1. Other WMAs
 - (a) Apr. 1 – May 5
 - (b) Bag limit 3
2. Keowee WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Shotguns only –north of Hwy 123 and west of the Keowee Arm of Lake Hartwell and west of Hwy 291. Archery only on other sections.
3. Draper WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
4. Belfast WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Hunters by drawing only
5. Worth Mountain WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
6. McCalla WMA
 - (a) April 1 – May 5
 - (b) Bag Limit 2
7. Fants Grove WMA
 - (a) April 1 - May 5
 - (b) Bag Limit 2
8. Liberty Hill WMA
 - (a) April 1 - May 5
 - (b) Bag Limit 2

9. Delta South WMA
 - (a) Apr. 1 – May 5
 - (b) Hunters by drawing only
10. Forty Acre Rock HP WMA
 - (a) April 1 - May 5
 - (b) Bag Limit 2

C. Game Zone 3

1. Other WMAs
 - (a) Apr. 1 – May 5
 - (b) Bag limit 3
2. Crackerneck WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 3
 - (c) Fri. and Sat. only
 - (d) Sign in and out at the gate required.
 - (e) Main gate opens at 4:30 am and closes at 1:00 pm.

3. Aiken Gopher Tortoise HP WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
4. Francis Marion National Forest
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Tibwin Special Use Area
 - (1) Apr. 1 – May 5
 - (2) Bag limit 2
 - (3) Special hunts for youth or mobility impaired hunters as published by SCDNR.
5. Moultrie
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) Bluefield WMA
 - (1) Apr. 1 – May 5
 - (2) Bag limit 2
 - (3) Adult/Youth only
 - (e) Hall WMA
 - (1) Apr. 1 – May 5
 - (2) Bag limit 2
6. Santee Cooper WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Hunting by public draw only
7. Webb, Palachucola and Hamilton Ridge WMAs
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.
8. Donnelley WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Hunting by public draw only
9. Bonneau Ferry WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Hunting by public draw only
 - (d) Closed to public access during hunts.
10. Santee Coastal Reserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Youth or mobility impaired hunting by draw only.
11. Edisto River WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
12. Tillman Sand Ridge Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
13. Victoria Bluff Heritage Preserve WMA
 - (a) Apr. 1 – May 5

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- (b) Bag limit 2
- (c) Thurs through Sat. only
- 14. Botany Bay Plantation WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Youth hunting by draw only.
- 15. Wateree River HP WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Hunting by public draw only

D. Game Zone 4

- 1. Other WMAs
 - (a) Apr. 1 – May 5
 - (b) Bag limit 3
- 2. Marsh WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) Sign in and out at the kiosk required.
- 3. Sand Hills State Forest WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
- 4. McBee WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 5. Little Pee Dee Complex WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 6. Pee Dee Station Site WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.

- 7. Woodbury WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
- 8. Great Pee Dee Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
- 9. Longleaf Pine Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 10. Manchester State Forest WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2

- (c) Thurs through Sat. only
- 11. Hickory Top WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
- 12. Oak Lea WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat.
- 13. Santee Dam WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
- 14. Wee Tee WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 15. Cartwheel Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 16. Lewis Ocean Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 17. Waccamaw River Heritage Preserve WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 18. Samworth WMA
 - (a) Apr. 1 – May 5
 - (b) Bag limit 1
 - (c) Youth hunting by draw only.
- 19. Liberty Hill WMA
 - (a) April 1 - May 5
 - (b) Bag Limit 2

E. Statewide Turkey Hunting Regulations and Youth Turkey Hunting Day on WMAs

1. The statewide youth turkey hunting day on designated WMA lands shall be the Saturday immediately preceding April 1
 - (a) The daily bag limit during the statewide youth turkey hunting day on WMAs is 2.
 - (b) A person less than 18 years of age is considered a youth turkey hunter.
 - (c) Only includes WMAs designated by the Department.
2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.
 - (a) During the spring turkey hunting season, only turkey gobblers (male birds) may be taken.
 - (b) Shotguns, muzzleloader shotguns, or archery equipment are permitted. All other weapons and methods of taking are prohibited including rifles, pistols, buckshot and slugs.
 - (c) Turkeys may not be hunted with dogs.
 - (d) Live decoys are prohibited.
 - (e) A tag issued by the Department must be placed around a harvested bird's leg before the bird is moved from the point of kill and the tag must be validated by the hunter as prescribed by the Department. A valid tag must remain on the carcass until it is processed (cut up).

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123-52. Date Specific Antlerless Deer Tags, Individual Antlerless Deer Tags, and Antlerless Deer Limits for Private Lands in Game Zones 1-4.

1. Game Zone 1: The last three Saturdays in November.
2. Game Zones 2 - 4: The first three Saturdays in October; the last three Saturdays in November; the second Saturday in December; January 1.
3. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.
4. In all Game Zones, beginning September 15 during archery only or primitive weapons seasons, hunters who harvest a deer using archery equipment only may choose to use any of the Date-Specific Antlerless Deer Tags issued to them to tag an antlerless deer provided that the archery notation and actual date of kill is validated on the tag as prescribed by SCDNR. Archery hunters may also use Individual Antlerless Deer Tags issued to them to tag an antlerless deer taken during any archery-only or primitive weapons only season provided that the tag is validated as prescribed by SCDNR.
5. Individual Antlerless Deer Tags: Only 1 Individual Antlerless Deer Tag may be used in Game Zone 1. Individual Antlerless Deer Tags are valid in Game Zones 2 - 4 beginning September 15 and in Game Zone 1 beginning October 1. Individual Antlerless Deer Tags are not valid on properties enrolled in the Deer Quota Program. Individual Antlerless Deer Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.
6. Antlerless Deer Limits: Game Zone 1 - Four (4) total for all seasons and weapons combined, no more than 2 per day. Game Zone 2 - Five (5) total for all seasons and weapons combined, no more than 2 per day. Game Zones 3 - 4, No more than 2 per day. Game Zone season and daily limits do not apply on properties enrolled in the Deer Quota Program.
7. All antlerless deer must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the Department. A valid tag must remain on the carcass until it is processed (cut up).

123-53. Bear Hunting Rules and Seasons.

1. The open season for taking bear in Georgetown County, Horry County, Marion County and Williamsburg County on private and WMA land is October 17 – October 30. Bear hunting is allowed on the following WMAs in those counties: Cartwheel Bay Heritage Preserve WMA, Lewis Ocean Bay Heritage Preserve WMA, Little Pee Dee River Heritage Preserve Complex, Waccamaw River Heritage Preserve WMA, and Wee Tee WMA.
2. Legal weapons for bear hunting on private lands include archery equipment, muzzleloaders (.36 caliber or greater), centerfire rifles, centerfire handguns and shotguns with slugs or buckshot.
3. On WMA lands, weapons used to hunt bear are limited to the weapons that are allowed for the current open season for deer on each WMA.
4. Harvested bear must be reported to SCDNR by midnight of the day of harvest as prescribed by the Department.
5. All harvested bears must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR.
6. The harvest quota for areas outside of Game Zone 1 is 30 bears for all counties and WMAs combined. If the 30 bear quota is met prior to October 30, the season will close 24 hours following a season closure notice. Hunters are responsible for monitoring the season status as prescribed by the Department.

Fiscal Impact Statement:

The amendment of Regulations 123-40, 123-51, 123-52, and 123-53 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting areas. New areas are evaluated based on location, size, current wildlife presence, access and recreation use potential. Regulations are formulated to provide maximum recreational opportunity while safeguarding wildlife populations for future generations.

Document No. 4771

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-11-30

114-600. Wilderness Therapeutic Camps for Children.

Synopsis:

The Department of Social Services is charged with administering the provisions of the law relating to child welfare agencies and with making and promulgating such rules and regulations relating to licensing standards and other matters as may be necessary to carry out the purposes of the laws relating to child welfare agencies, including group homes. The existing regulations regarding group homes (S.C. Code of Regulations Section 114-590) are not adequate to address wilderness therapeutic camps for children. These proposed regulations set forth the requirements for wilderness therapeutic camps to be licensed by the Department and enable the Department to enforce health and safety standards for wilderness therapeutic camps. These regulations protect the health, safety, and well-being of children residing at or receiving services through wilderness therapeutic camps.

The Notice of Drafting was published in the *State Register* on August 25, 2017.

Instructions:

The Department of Social Services proposes the placement of these regulations in a new section of the South Carolina Code of Regulations Chapter 114, Article 5, Subarticle 9 governing the licensing of residential group care facilities for children. Specifically, the new section will be placed immediately following Section 114-595 titled Standards for Supervised Independent Living.

Text:

114-600. Wilderness Therapeutic Camps for Children.

A. Definitions.

(1) Administrative Office - The office where business operations, public relations, and the management procedures take place.

(2) Agency - Refers to the South Carolina Department of Social Services.

(3) Chemical Restraints - Are drugs administered to temporarily restrain a child who poses a threat to harm themselves or others.

(4) Child - For the purposes of these regulations, a person between the ages of eight and twenty-one.

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(5) Child Care Staff - A paid professional who works at a wilderness therapeutic camp who has responsibility for direct care of the children.

(6) Corporal Punishment - Physical punishment inflicted directly upon the body.

(7) Executive Director - The person responsible for coordinating the general management, administration, and care of the children of a wilderness therapeutic camp in accordance with licensing requirements and policies established by the advisory board.

(8) Expedition - An off-site wilderness experience, including wilderness therapeutic camp staff and children, lasting no longer than twenty-eight (28) days. The experience may include hiking, canoeing/kayaking and other outdoor adventure activities.

(9) Group Care - Refers to the care and services provided by the wilderness therapeutic camp.

(10) Isolation - Defined as the involuntary confinement of a person in a room where the person is physically prevented from leaving.

(11) Permanent Building - A durable, fixed structure with a roof and walls that has indoor plumbing, electricity and heating and air conditioning.

(12) Program Director - The person who assists the executive director and is responsible for the day to day operations of a wilderness therapeutic camp.

(13) Restraint - Defined as any manual method, physical or mechanical device, material, or equipment attached or adjacent to the child's body, that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

(14) Standard License - Issued when a wilderness therapeutic camp meets all the requirements to obtain a license.

(15) Time Out - Defined as the temporary restriction of an individual for a period of time to a designated area from which the person is not physically prevented from leaving, for the purpose of providing the individual an opportunity to regain self control. Time out will last only for the shortest amount of time needed.

(16) Volunteers - Are persons, who of their own free will, provide goods or services to a wilderness therapeutic camp with no monetary or material compensation.

(17) Wilderness Therapeutic Camp - A therapeutic camp, organization, or facility with an outdoor or wilderness focus that is engaged in receiving children for care and maintenance, either part or full time, but shall not include any summer camp, day camp, or after school program, and shall also not include any other outdoor education or youth development program or facility where participants usually attend for less than 15 days, and does not include any licensed residential group care organization, child caring institution or group home or facility that meets the facility requirements of S.C. Code of Regulations Section 114-590.

(18) Wilderness Structures - A permanent or semi-permanent shelter constructed of wood and other materials used at a wilderness therapeutic camp for sleeping, cooking, eating, and/or other group activities. Wilderness structures might not be totally enclosed during all seasons and typically do not have electricity or mechanical heating and cooling systems.

B. General.

(1) Purpose of Licensing. The South Carolina Department of Social Services is legally empowered to regulate facilities for children pursuant to S.C. Code Section 63-11-30. The overall purpose of licensing by the South

Carolina Department of Social Services is to assure that wilderness therapeutic camps for children provide well rounded programs of care which include adequate protection, supervision and maintenance of children in care; safe wilderness structures and/or physical facilities; and opportunities for appropriate learning experiences which allow for the healthy physical and mental growth of the children in care and are directed toward maximizing the potential of each individual to be well adjusted, independent, and responsible.

(2) Compliance with Other Laws. All wilderness therapeutic camps must comply with all other applicable requirements of State and Federal laws.

C. Organization and Administration.

(1) Purpose and Need.

(a) At the time of application for licensing of a new wilderness therapeutic camp, a wilderness therapeutic camp shall submit a concise written statement addressing the following:

(i) Definitive statement of purpose and objectives with respect to type of residential child care to be provided;

(ii) Description of services offered;

(iii) Ages and genders of children accepted;

(iv) Types of children accepted (e.g., abused, neglected, emotionally disturbed, dependent, neglected, status offenders, etc.) and types of children not appropriate for the wilderness setting;

(v) The geographical areas from which children are accepted.

(b) The wilderness therapeutic camp shall reevaluate its functions periodically and redefine them as changing community needs necessitate. A copy of the revised statement shall be submitted to the agency when changes occur.

(2) Board of Directors.

(a) A for profit organization may elect to have a board which functions in accordance with the organization's articles of incorporation or bylaws, complies with these licensing regulations and with applicable

state and federal laws. A list of names of board members must be submitted annually or whenever there is a change outlining the chain of command and the appropriate contact person(s) including names, addresses, and related phone numbers.

(b) A not for profit organization shall be chartered by the Secretary of State and shall have a board which functions in accordance with the organization's constitution and bylaws. A list of names of board members must be submitted annually or whenever there is a change outlining the chain of command and the appropriate contact person(s) including names, addresses, and related phone numbers. Wilderness therapeutic camps operated by a state agency are exempt from this requirement.

(c) The bylaws of a board of a not for profit organization must provide for the following:

(i) at least one annual meeting held at the wilderness therapeutic camp;

(ii) a limitation of the number of consecutive terms a member may serve;

(iii) an orientation for new board members; and

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(iv) a provision that prohibits board members from receiving financial compensation for their services.

(d) Responsibilities of a board of a not for profit organization shall include:

(i) selecting the director to whom administrative responsibility is to be delegated;

(ii) assuring that adequate funds are available;

(iii) formulating or approving policies;

(iv) accounting for the expenditure of funds;

(v) evaluating on an annual basis the performance of the director; and

(vi) ensuring that the Agency is informed of changes in administration.

(3) Finances.

(a) The wilderness therapeutic camp shall have a sound plan of financing which assures adequate funds to carry out its defined purpose and to provide proper care for children.

(b) A new wilderness therapeutic camp shall have a predictable source of funds to finance its first year of operation and reserve funds or documentation of available credit equal to the operating costs of the first three months. However, existing licensed wilderness therapeutic camps that are in good standing with the agency, and increasing the capacity by no more than twenty five (25) percent are exempt from the requirements to submit evidence of reserve funds or available credit.

(c) The wilderness therapeutic camp shall prepare a budget each year for its wilderness therapeutic camp showing anticipated income (including sources thereof) and expenditures. A copy shall be submitted to the agency.

(d) All board administered accounts shall be reviewed at least annually by a certified public accountant who does not serve on the board nor is otherwise employed by the wilderness therapeutic camp. The report shall be made a part of the wilderness therapeutic camp's record and a copy of the balance sheet submitted to the Agency at the time of relicensing.

(e) In the event financial stability is questionable, the Agency may require a financial audit to be conducted by a certified public accountant.

(4) Procedural Manual.

(a) The wilderness therapeutic camp shall develop and implement (and update as appropriate) a procedural manual to include, but not be limited to policies in the areas of: finance, procedures for appeals, complaints and grievances, emergency care in the event of a placement disruption, routine and emergency medical care, hospitalization, dental care, control of and administering medications, restraints, management of children's money, off-site expeditions, religion, community involvement for children, confidentiality, disaster plans, independent living services (if applicable), personnel, admission (including types of children not appropriate for the wilderness setting), discharge, discipline and firearms.

(b) The staff of the wilderness therapeutic camp shall be familiar with the procedural manual and a copy shall be made available to staff and the Agency.

(c) The wilderness therapeutic camp shall develop and implement personnel policies to include, but not be limited to: written job descriptions, orientation for new employees, training and staff development, role of all staff as mandated reporters, written organizational plans/chart, routine or universal health precautions and

infection control, use of tobacco, work schedule requirements, volunteers, disciplinary actions, grievances and procedures for revisions of personnel policies.

(5) Directors.

(a) Executive Directors shall have qualifications consistent with the responsibilities of the position as determined by the governing board.

(b) Program Directors are responsible for the day to day operations of a wilderness therapeutic camp. The Executive Director or the Program Director shall have the following qualifications: a Master's or Doctorate degree in social work or other related areas of study, a minimum of one year of outdoor youth program experience as well as an additional one year experience in the management or supervision of child care personnel, a child care program and/or a closely related field; or a Bachelor's degree, a minimum of one year of outdoor youth program experience as well as an additional two years of experience in the management or supervision of child care personnel, a child care program and/or a closely related field; or an Associate's degree and four years of experience in child care or a closely related field, including a minimum of one year of outdoor youth program experience as well as one year of experience in the management or supervision of child care personnel and program. Closely related fields acceptable in meeting these qualifications may include, but are not limited to social work, counseling, education, psychology, sociology, criminal justice, nursing, and recreational therapy.

(c) Each program shall designate support staff responsible for delivery of supplies to the field, mail delivery, communications and first aid support as necessary.

(d) Documentation of qualifications (e.g., a copy of diploma or transcript) shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

(e) Wilderness therapeutic camp directors must report suspected child abuse and neglect as defined in S.C. Code Section 63-7-310 *et seq* to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services or to a law enforcement agency in the county where the child resides or is found.

(6) Staff.

(a) At a minimum, child care staff shall be responsible for the care, nurture, monitoring and supervision of children; supporting and promoting parental involvement when appropriate; reporting suspected child abuse and neglect to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services or to a law enforcement agency in the county where the child resides or is found; and guidance on independent living services, as appropriate.

(b) Child care staff shall have a minimum of a high school diploma, certificate or equivalent, and shall be at least twenty one (21) years of age. No staff member shall supervise a child unless the staff member is at least 5 years older than the child.

(c) Documentation of qualifications (e.g., a copy of diploma or GED) shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

(7) Training.

(a) Staff who work directly with the children must have a minimum of fourteen (14) hours annually of training related to child care.

(b) The director shall submit an outline of proposed training to the Agency for the upcoming licensing period to include training topics and a general timeline.

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(c) Documentation of completed training shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

(d) Prior to working with children, staff must have undergone a general orientation of the wilderness therapeutic camp.

(e) A wilderness therapeutic camp shall require at least one staff member present in each camp site to be certified in standard first aid and cardiopulmonary resuscitation.

(f) Standard first aid and cardiopulmonary resuscitation training shall be completed in person. Training shall not be completed online.

(g) At least one staff person who escorts children on expeditions off site shall be trained in wilderness first aid by someone certified in wilderness first aid.

(h) Within the first year of employment, staff must have fourteen (14) hours of training (not including first aid and cardiopulmonary resuscitation). Training topics shall include but not be limited to: skill training in specific methods employed by the program, crisis management protocol, significance and value of birth and extended family, identifying and reporting child abuse and neglect, role of all staff as mandated reporters, basic communication, interviewing skills, HIV/AIDS, information relating to transmission and prevention of infection, group dynamics, fire life safety, water safety, history and development of the service being provided (from the wilderness therapeutic camp) and its current status, grief and loss issues for children in care, low impact wilderness expedition and environmental conservation skills and procedures, navigational skills, including map and compass use and contour and celestial navigation, local environmental precautions, including terrain, weather, insects, and poisonous plants, specific organizational policies and procedures, supervision and teaching skills, prudent parenting and other education and/or training required by the state.

(i) Training topics for annual continuing education (14 hours of training) may include but not be limited to: working with children who may have emotional, behavioral, or physical problems, developmental delays, treatment care specific to the needs of the population served, individualized education and development plans, developmental needs of children, discipline, de-escalation and behavior management techniques, and suicide prevention.

(j) Training shall be completed by qualified staff on-site or may include off-site training opportunities, conferences, etc.

(k) The initial staff training must be completed and documented before the staff person may be included in the staff to child ratio.

(8) Volunteers.

(a) If volunteers are used as part of a wilderness therapeutic camp's program of services, the wilderness therapeutic camp shall have written policies to screen, select and supervise volunteers.

(b) Those volunteers who have opportunity for unsupervised contact with children shall supply a written application and have an interview with the staff who is responsible for the supervision of volunteers before volunteering. The wilderness therapeutic camp shall provide the following for all volunteers who have the opportunity for unsupervised interaction with children prior to volunteering and annually thereafter: background screenings including a South Carolina Central Registry Check, National Sex Offender Registry Check, SLED (South Carolina Law Enforcement Division) Check, FBI fingerprint check, Sexual Offenders Registry Check, and documentation of freedom from communicable or contagious diseases.

(c) Volunteers shall be provided an orientation that includes a review of the wilderness therapeutic camp's program, policies and procedures, review of the duties of the volunteer, and a tour of the wilderness structures and/or physical facilities.

(d) Volunteers shall not substitute for staff and there must be a defined line of supervision with clear written expectations of the supervisor and volunteer.

(e) Volunteers shall be invited to participate in annual training required of other child care staff.

(f) Individuals or groups who offer to provide a one time or occasional voluntary service (parties, trainings, entertainment, etc.) and do not have unsupervised access to children, are not required to undergo a full background screening by the wilderness therapeutic camp. At least one wilderness therapeutic camp staff person must supervise the interaction between such individuals or groups and the children being supervised by the wilderness therapeutic camp.

(9) Staff to Child Ratio.

(a) Wilderness therapeutic camps are expected to maintain staffing levels that provide children with quality services and adequate supervision. Different camps may have different staffing needs based on the population of children served. The needs of the children shall be the predominant factor in determining the numbers of staff members needed.

(b) Wilderness therapeutic camps shall maintain a minimum staffing ratio of one (1) staff for every eight (8) children during the day and of one (1) staff for every ten (10) children during sleep hours.

(c) A minimum of two (2) staff shall be available at all times.

(d) The Agency may, at the Agency's discretion, temporarily require awake staff during sleep hours if additional supervision is deemed necessary.

(e) The Agency may, at the Agency's discretion, temporarily require a higher staff/child ratio if an on site review indicates that a child is at risk of abuse and more supervision is needed to maintain appropriate control, discipline, adequate care and safety.

(f) All wilderness therapeutic camps must have a responsive system to provide for back up staff in the event of an emergency or disruption.

(10) Staff Medical Reports.

(a) Staff shall have medical examinations at the time of employment (completed on the medical form provided by the Agency) to include written evidence from a physician or health resource attesting that the staff is in good health and free from communicable tuberculosis pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(b) Any staff member who, upon examination or as a result of tests, has symptoms of a condition that could be detrimental to the children or staff, or which would prevent satisfactory performance of duties, shall not work or continue to work at the wilderness therapeutic camp until the healthcare provider indicates that the condition no longer presents a threat to children or staff.

(c) Any staff member who is hospitalized must have a satisfactory medical report prior to resuming responsibilities at the wilderness therapeutic camp.

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(d) Annually, the wilderness therapeutic camp must obtain written evidence from a physician or health resource attesting that each staff member is free from communicable tuberculosis pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(11) Time Off for Residential Staff. Each full time residential staff member shall have at least one weekend off each month (or equivalent) in addition to one day off each week, except when the staff member is on expeditionary trips.

(12) Criminal Activity.

(a) No person shall be employed, volunteer, or live on the premises of a wilderness therapeutic camp who has been convicted, pled guilty or nolo contendere to:

(i) a substantiated history of abuse or neglect; or

(ii) an "Offense Against the Person" as provided for in Chapter 3, Title 16; or

(iii) an "Offense Against Morality or Decency" as provided for in Chapter 15, Title 16; or

(iv) contributing to the delinquency of a minor as provided for in Section 16-17-490; or

(v) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger; or

(vi) criminal domestic violence, as defined in Section 16-25-20; or

(vii) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65; or

(viii) unlawful conduct toward a child as provided for in Section 63-5-70; or

(ix) cruelty to children as provided for in Section 63-5-80; or

(x) child endangerment as provided for in Section 56-5-2947; or

(xi) a felony drug related offense under the laws of this state; or

(xii) a person who has been convicted of a criminal offense similar in nature to a crime previously enumerated when the crime was committed in another jurisdiction or under federal law.

(b) The chief executive officer or the person authorized to hire staff shall agree to comply with the conditions of the Memorandum of Agreement on Criminal Record Checks.

(c) No person shall be employed, volunteer, or live on the premises of a wilderness therapeutic camp who is listed on the State or National Sex Offender Registry.

(13) Reports.

(a) Detailed written summary reports shall be made to the Department of Social Services Group Home Licensing Unit staff via email or fax within 24 hours. This report shall be made regarding occurrences involving children in care, including but not limited to:

(i) Any federal, state or private legal action by or against the wilderness therapeutic camp which affects any child, the conduct of the camp or any person affiliated with the camp;

(ii) Closure of a living unit due to disaster or emergency situations such as fires or severe weather; and

(iii) A decision to evacuate the wilderness therapeutic camp (if possible) and the names and location of all children who have evacuated in the case of an emergency.

(b) The wilderness therapeutic camp shall report to the Agency:

(i) Any change in executive director; and

(ii) Any impending change that would necessitate a change in the conditions of the license, i.e., capacity, age range, gender, location or name.

D. Buildings, Grounds and Equipment.

(1) Zoning Compliance and Building Codes.

(a) The construction of a new wilderness therapeutic camp, the conversion of an existing building for residential child care purposes, or the remodeling of a wilderness therapeutic camp must comply with all applicable zoning regulations and local and state building and fire codes.

(b) Architectural plans for new construction or structural changes must be approved by the State Fire Marshal's Office.

(2) Health Inspection.

(a) Each wilderness therapeutic camp shall have an annual safety and sanitation inspection.

(b) Based on the recommendations of the safety and sanitation inspections, the Agency will make a determination as to whether or not the wilderness therapeutic camp meets standards of health and sanitation for child caring purposes.

(c) A wilderness therapeutic camp is responsible for any fees or related expenses for the health inspection.

(3) Fire Inspection.

(a) There shall be an annual inspection by the State Fire Marshal's Office or by a legally authorized local fire authority at the request of the State Fire Marshal.

(b) Based on the recommendations of the fire authorities, the Agency will make a determination as to whether or not the wilderness therapeutic camp meets standards of fire safety for child caring purposes.

(c) A wilderness therapeutic camp is responsible for any fees or related expenses for the fire inspection.

(d) A fire escape plan shall be posted in the wilderness therapeutic camp in areas accessible to staff and children.

(4) Fire Safety.

(a) The wilderness therapeutic camp shall equip each wilderness site with a fire extinguisher as required by the state fire marshal.

(b) Fireplaces, hot water/steam radiators and pipes, or any other heating device capable of causing a burn shall be protected by a screen or otherwise effectively shielded.

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(c) If heating stoves are utilized, the wilderness therapeutic camp shall install and ventilate heating stoves that use combustible fuel in a manner that prevents fire hazards and dangerous concentration of gases.

(5) Condition.

(a) Routine maintenance must be performed as needed to ensure wilderness structures and buildings and equipment are safe and in good working order.

(b) Wilderness therapeutic camp sites and buildings will be kept clean, orderly, and free of debris and trash, both indoors and out.

(c) Fences must be in good repair.

(d) Swimming and wading pools must be enclosed with protective fencing to restrict children's access and must be well maintained as mandated by DHEC (South Carolina Department of Health and Environmental Control).

(e) Grounds within the housing site shall be free from debris, noxious plants (poison ivy, etc.) and uncontrolled weeds or brush.

(f) All camp sites shall be well drained and free from depressions in which water may stand. Mosquito breeding shall be prevented in such areas containing water not subject to such drainage or filling.

(g) Housing shall have flooring constructed of rigid materials, smooth finished, readily cleanable and so located as to prevent the entrance of ground and surface water.

(6) Heating/Cooling.

(a) Permanent buildings located at the wilderness therapeutic camp should contain heating equipment that shall be capable of maintaining a room temperature of not less than 68 degrees Fahrenheit as well as cooling equipment that shall be capable of maintaining a room temperature of not more than seventy five (75) degrees Fahrenheit.

(b) Wilderness structures located at campsites shall be capable of providing adequate warmth during cold weather months and adequate ventilation during hot weather months, considering the wilderness nature of the program and the needs of children in the program.

(c) Permanent buildings and wilderness structures and rooms with toilets, bathrooms, and bedrooms without operable windows must have adequate ventilation.

(7) Food Preparation and Storage. Food shall be prepared and stored in compliance with regulations established by the Department of Health and Environmental Control where applicable. If food is prepared away from a central dining building, the wilderness therapeutic camp shall:

(a) Store food in a manner that deters spoilage and contamination and does not attract animals, insects, or vermin;

(b) Require that perishable food stored in ice chests is maintained at a refrigerated temperature;

(c) Require that all surfaces that come in contact with food are clean and, when preparing meat products and other foods, not sources of cross contamination;

(d) Clean thoroughly and store all dishes, cooking, and eating utensils in a manner to avoid contamination;

- (e) Ensure that all water from natural sources be treated for sanitation to eliminate health hazards; and,
- (f) Use hot water and detergent to wash all food utensils after each meal at campsites.

(8) Sleeping Rooms and Bedding.

- (a) Sleeping quarters for children shall be suitable and adequately furnished with beds that are placed at least two feet apart.
- (b) The quarters shall have outside window exposure or auxiliary means of ventilation.
- (c) Bedroom quarters shall provide a minimum of fifty square feet of space per child.
- (d) Bunk beds shall not be used in a wilderness setting.
- (e) Children of the opposite gender shall not share a bedroom or portable structure.
- (f) Children shall not sleep in a bed with an adult under any circumstances.
- (g) No child shall sleep in an area designated or commonly used for other than bedroom purposes unless it is allowed temporarily during an emergency as part of the camp's disaster plan.
- (h) Each child shall have a separate bed with a level mattress, or sleeping bag when on expeditions, long enough to accommodate him/her. Sufficient bed coverings to include linens shall be provided.
- (i) Waterproof mattresses and pillow coverings shall be provided as needed.
- (j) The wilderness program shall use bedding that is adequate for protection and comfort in cold weather.
- (k) Bedding provided by the wilderness therapeutic camp shall be clean and sanitary. All bedding shall be laundered, at minimum, between assignments to different children.
- (l) Linens shall be changed as often as required for cleanliness and sanitation, but not less frequently than once a week.

(9) Bathroom Facilities.

(a) Bathroom Facilities in Permanent Buildings.

- (i) There shall be indoor bathrooms with at least one lavatory for every six children, a tub or shower and one indoor flush toilet for every eight children. Multiple toilets in one area shall be in separate compartments.
- (ii) The wilderness therapeutic camp shall maintain all toilet and personal hygiene areas in a sanitary manner to eliminate health or pollution hazards.
- (iii) Hot and cold water must be available. Water temperature for hot water must be limited to 120 degrees Fahrenheit or below.
- (iv) Separate bathroom facilities shall be provided for girls and boys.
- (v) Ventilation shall be provided with either an open screened window or functioning exhaust fan.
- (vi) Mirrors or non breakable reflective surfaces shall be provided in the bathrooms at levels easily accessible to children.

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(b) Privies at Campsites.

(i) There shall be at least two sanitary type privies at each campsite.

(ii) The wilderness therapeutic camp shall locate privies no closer than 65 feet but within a reasonable distance from a sleeping area.

(iii) Privies shall be cleaned regularly and maintained so as to prevent access of flies and animals to the contents therein, to prevent fly breeding and to prevent contamination of water supply.

(10) Staff Facilities. Staff who reside on-site shall be provided with sleeping and bathroom facilities separate from the children, with the exception of campsite privies.

(11) Personal Effects.

(a) Personal effects, towels, wash cloths, toothbrushes, combs and other toilet articles shall be supplied for each child's use and an appropriate and clean location for storage of such items shall be provided.

(b) Each child shall have a place separate from that of other children to keep his/her own personal effects (toys, books, pictures, etc.) as well as his/her clothing.

(c) Each child shall be permitted to bring safe and appropriate personal possessions with him/her and to acquire belongings of his/her own.

(d) A clothes washing machine and clothes dryer must be available.

(12) Activities.

(a) Provision shall be made for space and suitable equipment for both indoor and outdoor recreation activities.

(i) Equipment shall be age appropriate, in good working condition, and well maintained.

(ii) Stationary equipment such as swings and slides shall be securely anchored and located to avoid accidents.

(b) Children shall be provided with opportunities for interaction in the community through age and developmentally appropriate activities that are educational, recreational, cultural, and social in nature.

(c) Appropriate activities for children's participation may include school events, church activities, utilization of community recreation facilities, participation in community affairs, and attendance at cultural events.

(d) Documentation of recreational activities that are implemented and are appropriate to the developmental needs, and interests of children shall be on file in the wilderness therapeutic camp and available for review by the Agency licensing representative. In addition, documentation of at least three months of activities shall be submitted along with other relicensing documentation.

(e) Staff trained in water safety and an accountability system shall be present during water activities if personal flotation devices are not worn. Documentation of training in water safety shall be provided. A certified lifeguard shall be present during swimming in a swimming pool if personal flotation devices are not worn.

(f) Staff engaged in leading adventure activities such as rock climbing, canoeing, caving, etc. shall be adequately trained in the skills needed to participate in the activity, and at least one staff member shall have adequate experience in leading the activity.

(g) Off Site Activities. Wilderness therapeutic camps may make decisions regarding a child's participation in routine activities that involve a child spending the night (or several nights) away from the wilderness therapeutic camp for activities such as: camping trips, school related activity, church activity, or an overnight stay with a friend. Wilderness therapeutic camps must obtain consent from the legal guardian or parent(s) to allow such activities. If the child is in the Agency's custody, then the identified prudent parent can provide consent. The following must be taken into consideration when deciding the appropriateness of a child's participation in any off site event:

- (i) Stipulations of a court order;
- (ii) The child's background, presenting problems, developmental level, abilities and interests;
- (iii) If the activity is suitable, positive, and if it will contribute to the child's development; and
- (iv) The maturity and responsibility of the adults supervising the activity.

(13) Power or Vocational Tools.

(a) Staff must provide appropriate, direct supervision of children while children are using equipment or tools.

(b) All equipment must be well maintained and in good working order.

(c) Power tools shall have intact safety devices.

(d) Power tools must be stored in a locked area not accessible to children when not in use.

(e) Axes and knives must be stored in a locked area unless in use by camp staff or otherwise under camp staff supervision.

(14) Expeditions.

(a) There shall be a written plan for expedition groups approved by the program director or executive director, which shall not expose children to unreasonable risks.

(b) The expedition plan, including maps, routes, anticipated schedules and times, and sources of emergency care and methods of communication with such facilities as hospitals, police, and forest service shall be carried by the staff leading the expedition and a copy shall be available at the administrative office.

(c) Each expedition group shall have a telephone or comparable means of communication while on an expedition. If either of these is impossible, individual arrangements shall be made by the camp and approved by the Agency.

(d) Expedition group size shall maintain a minimum staffing ratio of one (1) staff for every five (5) children.

(e) An expedition shall last no more than twenty-eight days, except upon written permission of the Department granting an extension, after which children on the camping expedition shall return to the base camp.

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(f) Children must remain at the base camp at least ten days between mobile camping expeditions and activities.

(g) While on an expedition, the camp shall provide:

(i) Personal hygiene supplies that are biodegradable;

(ii) Means for a child to bathe or clean his or her body at least twice weekly;

(iii) Females with hand sanitizing wipes or similar products as well as feminine products for feminine hygiene purposes; and

(iv) A way to launder clothes or provide clean clothes at least weekly.

(15) Hiking.

(a) Hiking shall not exceed the physical capability of the weakest member of the group.

(b) The weight of a backpack to be carried by each child shall be based upon the physical condition of the child.

(c) Hiking shall be prohibited at excessive temperatures or weather conditions.

(d) Staff shall carry thermometers which accurately display the current outside temperature.

(e) If a child cannot or will not hike, the group shall not continue unless eminent danger exists. The reasons for refusal or inability to continue will be established and resolved before hiking continues. Program directors are responsible to train staff regarding this standard and to regularly monitor compliance.

E. Services to Children.

(1) Admissions.

(a) Intake policies shall be clearly defined, and admission shall be in keeping with the intake policies and limited to those children who fall within the scope of the wilderness therapeutic camp's purpose.

(b) Assessment and decisions about admissions shall be based upon an intake study (completed prior to admission) of the total situation of the needs of the child and family. Emergency admissions shall not be made.

(c) The intake study shall be prepared by the social service worker and shall be maintained in the child's record. The study shall include a summary of at least the following information:

(i) Current (within 1 year) evaluation by a licensed psychiatrist or psychologist or mental health evaluation by a licensed physician;

(ii) A description of family relationships and the circumstances that make the placement necessary;

(iii) The child's developmental history and ability of the child to communicate;

(iv) The parents' or placement agency's expectation of placement;

(v) The child's understanding of placement;

- (vi) A description of the child's personality, behavior, and interests;
 - (vii) The child's school history;
 - (viii) History of previous placements;
 - (ix) A statement about the child's legal status;
 - (x) A statement of the child's room, board and watchful oversight needs;
 - (xi) The immediate and long-range goals of placement;
 - (xii) The name of the family member or the placement agency who will be responsible for the relationship with the wilderness therapeutic camp and the child;
 - (xiii) Medical/dental history;
 - (xiv) Religious preference; and
 - (xv) List of friends or others that may be permitted to have contact with the child if approved by the facility (this shall include for legal reasons or special circumstances those individuals that must not have contact with the child as well).
- (d) A child who has a history of highly sexualized behavior, is considered to have perpetrated on other peers, and has a history of peer to peer sexual activity shall not be considered appropriate for placement at a wilderness camp.
- (e) Decisions regarding admissions shall be the responsibility of either the director and/or a Case Committee (which may include the director, the wilderness therapeutic camp's social worker, the child care worker/houseparent, etc.) and shall be limited to those persons to whom this responsibility is assigned.
- (f) Children under eight (8) years of age shall not be admitted for care in a wilderness therapeutic camp.
- (g) The intake process shall include a discussion with the child about placement and his or her parents or Placement Agency. It shall also include a visit to the Camp.
- (h) The wilderness therapeutic camp shall provide orientation for new children.
- (i) The wilderness therapeutic camp shall comply with the Interstate Compact on the Placement of Children when admitting children from another state.
- (j) No child shall reside at the camp for more than twelve consecutive months unless the camp has completed a full evaluation that determines the child is not ready for reunification with the child's family or guardian. In order to ensure the safety, health and care of a child residing longer than twelve consecutive months, the wilderness therapeutic camp shall obtain:
- (i) A report of a physical examination by a licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination; and
 - (ii) A report of a psychiatric or psychological examination conducted by a psychologist, psychiatrist or other appropriately licensed professional or a mental health evaluation by a licensed physician with no direct

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affiliation to the camp. Any written documentation of the psychiatric or psychological examination shall be completed by the individual who conducted the examination.

(2) Clothing and Equipment.

(a) The wilderness therapeutic camp shall request that the parent, legal guardian or placing agency provides each child with an adequate supply of individually selected, properly fitted clean clothing, suitable for outdoor living and appropriate for weather conditions, as well as sturdy, water resistant outdoor shoes or boots.

(b) If the parent, legal guardian or placing agency is not able to or does not provide adequate clothing, then the wilderness therapeutic camp shall provide the necessary clothing.

(c) Whenever possible, children shall be involved in the purchase and selection of new or donated clothing. Donated clothing may be used if in good condition.

(d) Clothing belonging to a child shall be taken with the child upon discharge.

(e) Children will be provided with the necessary equipment and supplies for outdoor activities at the wilderness therapeutic camp. Such equipment shall include the following:

(i) Sunscreen; the program staff shall ensure appropriate consumer usage;

(ii) Insect repellent;

(iii) Personal hygiene items; and

(iv) Female hygiene supplies for females.

(3) Nutrition.

(a) Meals with nutritional content that conforms to USDA recommendations shall be provided three times per day and wholesome, nutritious, and enjoyable snack options shall be provided between meals.

(b) Adults shall be present and providing appropriate supervision during the preparation and serving of meals.

(c) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician (i.e., degreed or certified in the area of nutrition) shall be submitted annually by the wilderness therapeutic camp. Documentation of the approved menus shall be on file for review at the time of licensing/relicensing.

(d) Menus shall be posted and followed.

(e) The only allowable substitutions are those that replace one item of a food group for another item of the same food group. Substitutions shall be documented on the posted menu.

(f) The same meal shall be provided for staff and children with the exception of the beverage.

(g) Water shall be available at each campsite.

(4) Discipline.

(a) The wilderness therapeutic camp shall adopt (and revise as appropriate) a written discipline code which shall include all policies, procedures and practices on disciplinary actions which are to be utilized by staff and procedures to be followed in administering and reporting discipline. The discipline code shall be submitted at the time of licensing/relicensing and when revisions occur.

(b) The written discipline code shall be shared (initially and when changes occur) with all staff members, children, parents, guardians and referral sources.

(c) The wilderness therapeutic camp is subject to South Carolina laws relating to child abuse and neglect. The wilderness therapeutic camp must immediately report incidents of suspected abuse or neglect to the South Carolina Department of Social Services Out of Home Abuse and Neglect Unit or to a law enforcement agency in the county where the child resides or is found. All staff shall be apprised of their role as a mandated reporter.

(d) Cruel, inhumane and inappropriate punishment is prohibited. This includes but is not limited to the following: head shaving or any other dehumanizing or degrading act; deprivation of food or family visits; deprivation of mail; slapping or shaking; the use of handcuffs; a pattern of threats of removal from the wilderness therapeutic camp as a punishment; disciplining a child for a medical or psychological problem over which he/she has no control (e.g., bedwetting, stuttering, etc.); denial of communication and visits with family members; demeaning acts designed to embarrass children (i.e., pushing a peanut with your nose etc.); denial of essential program services; denial of shelter, clothing, or personal needs; excessive physical exercise; excessive work tasks; verbal abuse.

(e) Efforts will be made to ensure the language of the discipline procedures shall be within each child's cognitive ability.

(f) All discipline techniques must begin with the least restrictive methods. Children who have been placed by a public agency or who are in the custody of the state shall not be subjected to corporal punishment. Otherwise, written permission must be obtained by the parent or legal guardian.

(g) Isolation rooms or techniques shall not be used.

(5) Restraints.

(a) Wilderness therapeutic camps that use restraints shall have a written restraint policy that complies with the following:

(i) All child care staff must be trained and certified through a nationally accredited restraint training curriculum.

(ii) Restraints shall only be used in circumstances in which the child poses a significant threat to himself or others, when less restrictive interventions have already been attempted or are not appropriate, and when the client's condition has been taken into consideration.

(iii) Chemical restraints may be implemented only under the supervision of a physician, physician's assistant or nurse practitioner with prescriptive authority.

(iv) Wilderness therapeutic camp staff shall be aware of each child's medical and psychological conditions, as evidenced by written acknowledgement by the affected staff of such awareness, to ensure that the emergency safety intervention that is utilized does not pose any undue danger to the physical or mental health of the child.

(v) Restraints must be discontinued as soon as the child demonstrates compliance or is no longer deemed dangerous.

(b) At a minimum, the restraint training curriculum that is utilized shall include the following:

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- (i) Techniques for de-escalating problem behavior including child and staff debriefings;
- (ii) Appropriate use of emergency safety interventions;
- (iii) Recognizing aggressive behavior that may be related to a medical condition;
- (iv) Awareness of physiological impact of a restraint on the child;
- (v) Recognizing signs and symptoms of positional and compression asphyxia and restraint associated cardiac arrest;
- (vi) Instructions as to how to monitor the breathing, verbal responsiveness, and motor control of a child who is the subject of an emergency safety intervention;
- (vii) Appropriate self-protection techniques;
- (viii) Policies and procedures relating to using manual holds, including the prohibition of any technique that would potentially impair a child's ability to breathe;
- (ix) Camp policies and reporting requirements;
- (x) Alternatives to restraint;
- (xi) Avoiding power struggles;
- (xii) Escape and evasion techniques;
- (xiii) Time limits for the use of restraint;
- (xiv) Process for obtaining approval for continual restraints;
- (xv) Procedures to address problematic restraints;
- (xvi) Documentation;
- (xvii) Investigation of injuries and complaints;
- (xviii) Monitoring physical signs of distress and obtaining medical assistance; and
- (xix) Legal issues.

(c) Wilderness therapeutic camps shall submit to the Department of Social Services Group Home Licensing Unit electronically or by facsimile a report in a format acceptable to the Agency at the conclusion of each month whenever the following conditions apply:

(i) For any wilderness therapeutic camp with a licensed capacity of 20 children or more, any 30-day period in which three or more instances of restraints of a specific child occurred and/or whenever the wilderness therapeutic camp has had a total of 15 restraints for all children in care within the 30-day period; and

(ii) For any wilderness therapeutic camp with a licensed capacity of less than 20 children, any 30-day period in which three or more instances of restraints of a specific child occurred and/or whenever the wilderness therapeutic camp has had a total of 10 instances for all children in care within the 30-day period.

(d) At least once per quarter, the wilderness therapeutic camp, utilizing a master restraint log and the child's case record, shall review the use of all restraints for each child and staff member, including the type of intervention used and the length of time of each use, to determine whether there was a clinical basis for the intervention, whether the use of the restraint was warranted, whether any alternatives were considered or employed, the effectiveness of the intervention or alternative, and the need for additional training. Written documentation of all such reviews shall be maintained. Where the wilderness therapeutic camp identifies opportunities for improvement as a result of such reviews or otherwise, the wilderness therapeutic camp shall implement these changes through an effective quality improvement plan.

(6) Family Relationships/Visitation.

(a) Unless a child has been removed from the custody of his/her own family and visitation is specifically prohibited by a court order or other legal document, every effort shall be made (in coordination with the referral agency when one is involved) to strengthen family relationships and to help the parent(s) make a responsible plan for the permanent care of their child(ren). This shall include encouraging the parents/relatives to visit on-site and to have the child visit with them off-site as appropriate.

(b) Plans for family visitation shall be included in the written plan of care for the child.

(c) Correspondence between the child and the family shall not be censored, except in extreme circumstances (e.g., sending/receipt of contraband, dangerous materials, sexually explicit, etc.) with those involved being advised that their correspondence is being censored. The reason for censorship shall be documented in the child's record.

(d) All incoming mail may be required to be opened in the presence of staff.

(7) Exploitation.

(a) A wilderness therapeutic camp shall not use a child for solicitation of funds, without the written permission of the parent or legal guardian and the child (if more than ten years of age). This shall include the

child making or giving public statements pertaining to his/her history or dependency on or gratitude to the wilderness therapeutic camp; the wilderness therapeutic camp making such public statements about a particular child; or having a child collect or solicit donations on behalf of the wilderness therapeutic camp.

(b) A wilderness therapeutic camp shall obtain the written consent of the child's parent(s), or legal custodian before using the child's name, photograph or other identifying information in any form of written, visual or verbal communication which will be made public (e.g., social media, newspaper, television or radio articles/publicity materials; materials mailed or otherwise distributed by the wilderness therapeutic camp to the public, etc.).

(8) Medical Care.

(a) Health Care.

(i) There shall be adequate provision for immediate, current, and routine health care needs, including mental health, with services available at all times. A child's general health care shall be under the direction of one specific doctor, clinic, or other licensed health facility.

(ii) A wilderness therapeutic camp must be apprised of a child's physical condition, physical disability, or communicable diseases.

(iii) Within six months prior to or within seventy two hours after admission to a wilderness therapeutic camp, the parent, legal guardian, or placing Agency shall ensure a child has a recorded medical examination conducted by a licensed physician or a licensed nurse practitioner.

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(iv) The executive director shall develop policies and procedures to assure that State laws prohibiting minors from smoking are enforced in all wilderness therapeutic camps. Policies and procedures shall assure that children are not exposed to second-hand smoke while at the wilderness therapeutic camp or in the custody of staff.

(v) Each child shall be provided with all required inoculations as well as such additional inoculations as may be appropriate under the circumstances, except with a documented medical or religious exemption obtained from a licensed physician or from the Department of Health and Environmental Control. All necessary medical care with respect to treatment of illness and correction of physical disabilities shall be carried out promptly.

(vi) A wilderness therapeutic camp shall maintain on file a record as to each child of an annual health examination by a licensed physician or a licensed nurse practitioner.

(b) Hospitalization.

(i) The wilderness therapeutic camp shall make provision and establish procedures for hospitalization when needed for children under its care.

(ii) If a child is in need of hospitalization or medical treatment, the child's legal guardian, parent or caseworker must be notified as soon as possible.

(iii) Medical consent for planned hospitalization or a medical treatment must be obtained from the child's legal guardian, parent or an appropriate Agency representative.

(c) Illness and First Aid.

(i) Each member of the child care staff shall be able to recognize the common symptoms of illness of children and to note any obvious physical disability.

(ii) A wilderness therapeutic camp shall ensure at least one staff member per working shift is certified in first aid and cardiopulmonary resuscitation. At least one staff person who escorts children on expeditions off site should be trained in wilderness first aid.

(iii) A written first aid plan and a first aid kit shall be available to child care staff.

(iv) First aid supplies shall be available and administered by a trained staff member.

(d) Dental Care.

(i) Children shall have had a dental examination by a licensed dentist within the six months prior to admission. Dental treatment shall be provided as recommended by the examining dentist.

(ii) Each wilderness therapeutic camp shall have a specific plan for dental care and dental health that shall be consistently followed. The plan shall provide for, at a minimum, annual checkups by a licensed practitioner.

(e) Health Records. A continuous medical record reflecting each child's growth and development, illnesses, treatments, inoculations, dental care, etc., shall be kept at the wilderness therapeutic camp.

(f) Medications.

(i) Persons administering medication shall have received appropriate training. Documentation of training shall be filed in the individual's personnel record.

(ii) A wilderness therapeutic camp shall designate and authorize specific staff to administer medications and supervise the taking of medications. Only designated and authorized staff shall administer and supervise the taking of medication. Staff will ensure medication has been taken by the person to which it is prescribed. If a designated and/or authorized staff member makes three medicine errors in 30 days, then that staff member shall not administer medications until the staff member receives additional training by the facility director or designated staff as appropriate to the specific circumstances. Documentation of how the issue was addressed shall be maintained by the facility.

(iii) All medications shall be kept in a double locked secure area, accessible only to staff.

(iv) If children are away from the camp during the time they need to take their medication or over 24 hours, camp staff shall keep medicines locked in the daypack and kept on the staff person who is responsible and trained to administer medication.

(v) All prescription medication shall be labeled for the individual child including the dosage and frequency of the dose.

(vi) A log must be maintained to document the time the medication was administered, the dosage and the name of the person administering the medication. The log must also record any changes in medication or treatment or incidents when the child failed to receive the medication.

(vii) If medications are discontinued, the remaining medications shall be destroyed following the recommendations of the South Carolina Department of Health and Environmental Control.

(g) Medical Costs. The person or entity with custody shall be responsible for payment of any medical services received that are not covered by insurance.

(9) Academic and Vocational Training.

(a) Each wilderness therapeutic camp shall be responsible for providing an opportunity for academic training and/or vocational training in accordance with the abilities and needs of the children.

(b) Wilderness therapeutic camps providing on-site educational programs must meet compulsory education requirements as defined by the South Carolina Department of Education.

(c) Children who are eligible (based on federal standards) shall have independent living goals and strategies as part of their service plan.

(d) Children shall be permitted and encouraged to participate in extracurricular activities such as sports, art, and music to the extent of their interests.

(e) School attendance shall be in accordance with state law requirements and be in accordance with the ability and best interests of the child.

(10) Religion.

(a) Each wilderness therapeutic camp shall have clearly defined policies regarding the availability of religious training for the information of those considering the placement of a child. This information shall be made available to parents, legal guardians and children.

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(b) The wilderness therapeutic camp shall provide access to religious services and/or religious counseling at least once each week. Attendance shall be voluntary. A minor shall be allowed to participate in other program activities if he/she elects not to participate in religious programs.

(c) Religious programs shall provide for, at minimum:

(i) opportunity for religious services;

(ii) availability of clergy; and

(iii) availability of religious diets.

(11) Disaster Plans.

(a) A written disaster plan, including a plan for transportation, must be included as part of the policy and procedure manual. Types of disasters for which the facility must prepare include, but are not limited to: hurricane, severe thunderstorm, tornadoes, chemical emergency, power outage, wildfire, heat wave, flood and winter storm. The plans shall include options for evacuation sites that are a safe distance away from the disaster. The plans shall be reviewed annually by all staff and resubmitted as part of the annual relicensing requirements.

(b) In the event of a mandatory evacuation order due to a disaster, children are to be evacuated to a designated shelter or a safe location that is not threatened by the disaster.

(12) Discharge and Aftercare.

(a) The wilderness therapeutic camp shall adopt and update, as appropriate, written policies concerning discharge and aftercare.

(b) Careful evaluation shall be made on an ongoing basis in order to assess when and if a child may be returned to his/her own home, placed in a foster home or with relatives, or transferred to another facility better suited to meet his/her needs.

(c) A wilderness therapeutic camp shall provide sufficient notice to the child and the referral source prior to discharge to allow arrangements for an appropriate alternative placement to be made.

(d) A wilderness therapeutic camp will complete a discharge report for a child residing in a wilderness therapeutic camp for ninety (90) or more days. The discharge report shall include major recommendations and outcomes, list records to be transferred, and be available to the Agency or legal guardian within ten (10) days of discharge.

(13) Foster Home Care. Children placed in a wilderness therapeutic camp of a particular organization may not be moved to one of its foster homes unless the wilderness therapeutic camp is licensed as a Child Placing Agency, the foster home is licensed, and the wilderness therapeutic camp has the permission of the placing entity.

(14) Records.

(a) Every wilderness therapeutic camp shall maintain a confidential case record as required by South Carolina Code Section 63-11-80, stored in a locked or secure area, which may not be disclosed except for purposes directly connected with the administration of the wilderness therapeutic camp or for the care and well-being of a child.

(b) The file shall contain the following:

- (i) Application for services;
- (ii) A study of the child in context of their family, provided by the referring party, including a statement regarding custody and legal responsibility for the child;
- (iii) A copy of the birth certificate provided by the placing entity;
- (iv) Authorization for medical treatment signed by parent or guardian;
- (v) Reports on medical care, inoculations, dental care, and psychological and psychiatric reports, if any are available;
- (vi) Current record of the child's physical, emotional, social and academic progress in residential group care, and relationships with the family while the child is under care;
- (vii) Discharge information and plan for return to the community;
- (viii) Documentation that the legal guardian or parent has been informed whenever a child has been involved in a major behavior incident;
- (ix) Documentation of major behavior incidents; and
- (x) Documentation that the designated prudent parent has brought to the child's attention multiple age or developmentally-appropriate activities as required by the Prudent Parent Standard.

(15) Transportation.

- (a) Vehicles transporting children will comply with all state and federal laws.
- (b) No vehicle shall transport more children than the manufacturer's rated seating capacity.
- (c) The bed of an open body or stake bed vehicle must not be used for transporting children.
- (d) Each vehicle shall be equipped with an adequately supplied first aid kit.
- (e) Staff and children shall wear seat belts at all times while the vehicle is moving.
- (f) Each wilderness therapeutic camp must have a policy and written disaster plan for transporting children in the event of an emergency or disaster.
- (g) Drivers of vehicles shall have a valid driver's license and follow safety requirements of the State.
- (h) At least one driver must be certified in cardiopulmonary resuscitation and first aid.

(16) Tasks.

- (a) Assigned tasks shall be appropriate to the age and abilities of the child and assigned for the purpose of training in skills and attitudes and in the proper assumption of personal responsibility.
- (b) The wilderness therapeutic camp shall differentiate between tasks of daily living, jobs to earn spending money, and jobs to gain vocational training.

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(c) Daily living tasks shall be made known to the child during orientation and the child shall be given some choice in chores with duties that provide a variety of experiences.

(d) The rules on jobs to earn spending money or gain vocational training shall be made known to all age appropriate children. Opportunities to participate shall be made available in accordance with the child's age and abilities and so as not to interfere with other educational activities.

(e) Children shall not substitute for staff nor regularly perform tasks more appropriately assigned to staff.

(f) The wilderness therapeutic camp shall comply with the Fair Labor Standards Act (child labor laws).

F. Licensing.

(1) Inquiries. Requests for information regarding an application for a license shall be sent to the South Carolina Department of Social Services (SCDSS). SCDSS will then send a copy of the rules and regulations governing the license. Consultation will be available upon request.

(2) Procedure for Initial Licensing.

(a) With the initial application for a license, the following information shall be sent to the South Carolina Department of Social Services:

(i) A completed formal application, including all forms assuring compliance with Federal laws;

(ii) A copy of the charter or law establishing the wilderness therapeutic camp;

(iii) A copy of the constitution or bylaws, and operating procedures;

(iv) A copy of a map for the entire camp;

(v) A copy of the floor plan for each wilderness structure used for sleeping;

(vi) A statement of the purpose, scope of services to be provided, intake policy specifying age, gender, type of children to be accepted for care, and the area of the state in which it plans to operate and serve;

(vii) A current list of governing board members, including names, positions, addresses and phone numbers for each, and committees;

(viii) A financial statement showing assets, income and sources thereof, verification of a minimum of three (3) months operating capital on hand;

(ix) The wilderness therapeutic camp's initial budget, including estimated income and expenditures for the first year;

(x) A copy of the current policy and procedural manual;

(xi) The number of buildings and a statement regarding the general condition of the wilderness structures and/or physical facilities;

(xii) Verification of local building and zoning compliance;

(xiii) A current fire inspection report;

- (xiv) A current health and sanitation inspection report;
 - (xv) Disaster plan, including plan for transportation of children;
 - (xvi) Documentation of recreational activities that will be implemented and are appropriate to the developmental needs, and interests of children;
 - (xvii) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician;
 - (xviii) Job descriptions, including education and work experience requirements for staff;
 - (xix) Names and job titles of staff, and proof of education and work experience as evidenced by completed applications or resumes;
 - (xx) Medical examination reports for all child care staff;
 - (xxi) Tuberculosis screening for all staff;
 - (xxii) Memorandum of Agreement on Criminal Record Checks;
 - (xxiii) South Carolina State Law Enforcement Division (SLED) criminal records checks and FBI fingerprint checks for all staff and volunteers who have unsupervised contact with children;
 - (xxiv) South Carolina Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children;

 - (xxv) National Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children;
 - (xxvi) South Carolina Child Abuse and Neglect Central Registry checks for all staff and volunteers who have unsupervised contact with children;
 - (xxvii) Documentation of orientation training completed by each staff member;
 - (xxviii) Documentation of a nationally accredited restraint training certification for all child care staff who may restrain children; and
 - (xxix) Documentation of first aid and cardiopulmonary resuscitation for at one staff member per working shift and wilderness first aid for at least one staff person who escorts children on expeditions off site.
- (b) As soon as possible after the receipt of the application for a license, a representative of the South Carolina Department of Social Services will visit the wilderness therapeutic camp and will secure information on which to evaluate the program in relation to licensing standards.
- (c) If the wilderness therapeutic camp wishes to operate a foster home or adoptive home program in addition to caring for children in residential group care, it will be necessary to submit additional information as required for a license to operate a Child Placing Agency.

(3) License.

- (a) The terms of the license, the number, age and gender of children to be maintained will be stated in the license issued.

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(b) A License will be issued when a wilderness therapeutic camp meets all applicable regulations. A License is effective for twelve months from the date of issuance.

(c) The license shall be displayed at all times.

(d) The wilderness therapeutic camp shall not deviate from the provisions specified in the license issued.

(e) The license is not transferable, is specific to the location, owner or governing organization, and existing buildings at the time of licensure.

(4) Denial or Revocation of a License.

(a) The Agency may refuse to issue a license, or may revoke the license of a current licensee, if the applicant/licensee:

(i) Fails to comply with wilderness therapeutic camp licensing regulations;

(ii) Violates state or federal laws;

(iii) Abuses or neglects children as defined in S.C. Code Section 63-7-20 (also refer to Discipline, E(4));

(iv) Knowingly employs, on a paid or volunteer basis, a person with a past/current history of child abuse or is on the South Carolina Central Registry of Child Abuse and Neglect or fails to terminate their employment once the record is known;

(v) Makes a false statement or a misrepresentation to the Department of Social Services that adversely impacts the care and safety of children;

(vi) Refuses to submit licensing or child specific information or reports to the Agency as it relates to care and safety of children;

(vii) Fails to cooperate, withholds information, or impedes an investigation of child abuse or neglect;

(viii) Fails to provide, maintain, equip, and keep safe and sanitary the wilderness therapeutic camp to care for children;

(ix) Fails to provide adequate financial resources to maintain the wilderness therapeutic camp; or

(x) Fails to notify the Agency of any structural improvements or new construction within three (3) working days.

(b) The Agency is empowered to seek an injunction against the continuing operation of a wilderness therapeutic camp as provided in Section 63-7-1210, including the following:

(i) When a wilderness therapeutic camp is operating without a license; or

(ii) When the Agency determines a threat of harm exists to children in the wilderness therapeutic camp.

(c) Notification. Written notice will be given to an applicant or wilderness therapeutic camp by certified mail or hand delivered by an Agency representative, if the license is revoked or denied.

(d) Appeals. Any wilderness therapeutic camp whose application has been denied or revoked, may request a hearing within thirty (30) days of receipt of notification of the Agency's decision. Requests for appeals must be forwarded to the South Carolina Department of Social Services, Office of Administrative Hearings.

(5) Termination of License.

(a) Expiration of License. A License expires automatically at the end of twelve months from the date of the issuance of the license unless renewed or cancelled prior to that date.

(b) Cancellation of License. A license shall be cancelled if there is a deviation from the provisions of the license or if the location of the wilderness therapeutic camp or the wilderness therapeutic camp organization operating the facility changes.

(6) Annual Review and Relicensing.

(a) Annually, all licensed wilderness therapeutic camps must submit the material listed below to the South Carolina Department of Social Services. Continued licensing will be based on a review of this material and a visit(s) by a representative of the Agency to tour the wilderness therapeutic camp, review the program, audit children's records, and interview staff and/or children as appropriate. The material to be submitted includes the following:

- (i) A completed formal application;
- (ii) An annual population report;
- (iii) A current list of governing board members, including names, positions, addresses and phone numbers for each, and committees;
- (iv) A copy of the wilderness therapeutic camp's most recent financial statement;
- (v) An estimated budget for the wilderness therapeutic camp's current fiscal year;
- (vi) A copy of the discipline policy;
- (vii) A report of any major changes in program or the wilderness structures and/or physical facilities planned for the coming year;
- (viii) A report of a fire inspection that was completed within the past licensing period;
- (ix) Record of monthly fire drills for fire and emergency evacuation that are held at different times;
- (x) A health and sanitation inspection report that was completed within the past licensing period;
- (xi) Disaster plan, including plan for transportation of children;
- (xii) Documentation of at least three months of recreational activities that were implemented and were appropriate to the developmental needs, and interests of children;
- (xiii) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician;
- (xiv) The names and job titles of current staff and completed applications or resumes for staff who have been employed since the last license was issued;

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(xv) Reports of medical examinations for each new child care staff employed after the date of the previously issued license and a statement of freedom from contagious disease for all other child care staff;

(xvi) Tuberculosis screening for all staff;

(xvii) Memorandum of Agreement on Criminal Record Checks if a new chief executive officer has been hired and the completed agreement has not yet been obtained;

(xviii) Current South Carolina Law Enforcement Division (SLED) criminal records checks and FBI fingerprint checks for all staff and volunteers who have opportunity for unsupervised contact with children;

(xix) South Carolina Sex Offender Registry Checks for staff and volunteers who have opportunity for unsupervised contact with children;

(xx) National Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children;

(xxi) South Carolina Child Abuse and Neglect Central Registry checks for all staff and volunteers who have opportunity for unsupervised contact with children;

(xxii) Documentation of at least fourteen (14) hours of training within the last year for all child care staff;

(xxiii) Documentation of a nationally accredited restraint training certification for all child care staff who may restrain children;

(xxiv) Documentation of first aid and cardiopulmonary resuscitation for at one staff member per working shift and wilderness first aid for at least one staff person who escorts children on expeditions off site; and

(xxv) Documentation from a county building inspector may be required if the Agency suspects a new or existing building or structure poses a risk of harm to children.

(b) Any deficiencies or corrective action plans previously cited must be cleared prior to the renewal of the license unless otherwise approved by the Agency.

(7) Authorized actions by the Agency.

(a) Licensing staff from the agency may make visits to the wilderness therapeutic camp without prior notice to ascertain continued compliance with these requirements.

(b) The Agency shall investigate complaints to determine if the wilderness therapeutic camp is meeting licensing requirements and shall take appropriate and necessary actions based on its findings.

(c) The Agency shall inform the director of the wilderness therapeutic camp of any deficiencies or corrective action plans that have been implemented as the result of a complaint or unannounced visit.

(d) If the director is the subject of the complaint, the chairman of the board will be notified.

Fiscal Impact Statement:

The proposed regulations will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State Government due to any inherent requirements of this regulation.

Statement of Rationale:

These regulations are proposed to enhance and improve the licensing regulations for wilderness therapeutic camps for children. The existing group home regulations set forth in S.C. Code of Regulations Section 114-590 do not adequately address the unique nature of wilderness therapeutic camps. The proposed regulations are intended to fill that void. The proposed regulations shall establish standards that protect the health, safety, and well-being of children residing at or receiving services through wilderness therapeutic camps. The overall purpose of licensing by the South Carolina Department of Social Services is to assure that wilderness therapeutic camps for children provide well rounded programs of care which include adequate protection, supervision and maintenance of children in care; safe wilderness structures and/or physical facilities; and opportunities for appropriate learning experiences which allow for the healthy physical and mental growth of the children in care and are directed toward maximizing the potential of each individual to be well adjusted, independent, and responsible.