

SUMMARY SHEET  
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

December 10, 2020

- ( ) ACTION/DECISION  
(X) INFORMATION

**I. TITLE:** Healthcare Quality Administrative and Consent Orders.

**II. SUBJECT:** Healthcare Quality Administrative Orders and Consent Orders for the period of October 1, 2020 through October 31, 2020.

**III. FACTS:** For the period of October 1, 2020 through October 31, 2020, Healthcare Quality reports two (2) Consent Orders totaling \$750 in assessed monetary penalties and a hundred and two (102) Notices of Violation and Civil Penalty totaling \$26,000 in assessed monetary penalties. Neither Administrative Orders nor Emergency Suspension Orders were executed during the reporting period.

Healthcare Quality Bureau	Facility, Service, Provider, or Equipment Type	Notices of Violation and Civil Penalty	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
Bureau of Facilities Oversight	Community Residential Care Facility	75	0	1	0	\$21,250
	Nursing Home	22	0	0	0	\$5,500
Bureau of EMS and Healthcare Professionals	Emergency Medical Technician	0	0	1	0	\$0
<b>TOTAL</b>		<b>97</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>\$26,750</b>

Submitted By:

*Gwendolyn C. Thompson*

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Gwen C. Thompson  
Director of Healthcare Quality

HEALTHCARE QUALITY ENFORCEMENT REPORT  
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

December 10, 2020

**Bureau of Facilities Oversight**

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Community Residential Care Facility	493	22,016

**1. Dowdy’s Community Care Home – Columbia, SC**

Inspections and Investigations: The Department notified the facility beginning in July 2020 that the facility was required to submit both a license renewal application and a license renewal fee in order to renew their license. The Department found that the facility repeatedly violated regulatory requirements by letting their license expire.

Violations: The Department found the facility failed to comply with Regulation 61-84, *Standards for Licensing Community Residential Care Facilities*, by continuously failing to submit the renewal application and fees within the specified timeframe. The facility continued to repeatedly fail to submit a renewal application and pay the required fees in a timely manner.

Enforcement Action: The parties agreed to resolve the matter with a consent order after the Department notified the facility that their license was expired and no longer valid. In October 2020, the parties executed a consent order imposing a civil monetary penalty of \$750 against the facility. The facility was required to pay the full amount of the penalty within 30 days of executing the Consent Order. Under the terms of the Consent Order, the Department agreed to reissue the facility’s renewal license upon receipt of the full monetary penalty.

Remedial Action: The facility has made the required payment. The Department has reissued the facility’s license.

Prior Enforcement Actions: None in the past five years.

**2. Facilities in Violation of Public Health Order No. COVID-19-5**

Violations: The Department found that the ninety-seven (97) community residential care facilities (CRCFs) and nursing homes listed below failed to submit a weekly visitation report to the Department by the mandatory deadline. Failure to submit the report by the deadline is in violation of the Department’s October 7, 2020, Public Health Order that requires all nursing homes and community residential care facilities (CRCFs) licensed by the Department to submit a weekly report on their visitation status.

Enforcement Action: In October 2020, the Department issued Notices of Violation and Civil Penalty imposing a civil monetary penalty of \$250 against seventy-five (75) community residential care facilities (CRCFs) and twenty-two (22) nursing homes. An additional \$350 civil monetary penalty was imposed on five (5) community residential care facilities (CRCFs) that received Repeat Notices of Violation and Civil

Penalty. All of the facilities listed below were required to pay the full amount of their accumulated penalties within 20 days of the dated notices.

Facility Name	Facility Type	Civil Penalty	Payment Received	Repeat Violation
ANDERSON OAKS ASSISTED LIVING	CRCF	\$250.00	YES	NO
ANGELIC'S PLACE	CRCF	\$250.00	YES	NO
ANOINTED RESIDENTIAL CARE	CRCF	\$250.00	YES	NO
ANOINTED RESIDENTIAL CARE #2	CRCF	\$250.00	YES	NO
BEARD RESIDENTIAL CARE FACILITY #1	CRCF	\$250.00	YES	NO
BELL'S PROFESSIONAL RESIDENTIAL HOME CARE	CRCF	\$250.00	YES	NO
BOSTICK'S ADULT RESIDENTIAL CARE FACILITY	CRCF	\$250.00	YES	NO
BROOKDALE COLUMBIA	CRCF	\$250.00	YES	NO
BTU REST HOME	CRCF	\$250.00	YES	NO
CANTERFIELD OF BLUFFTON	CRCF	\$250.00	YES	NO
CARE WITH LOVE	CRCF	\$250.00	YES	NO
CARE WITH LOVE II	CRCF	\$250.00	YES	NO
CAROLINA GARDENS AT GARDEN CITY	CRCF	\$250.00	YES	NO
CAROLINIAN	CRCF	\$250.00	YES	NO
CARRIAGE HOUSE SENIOR LIVING OF TAYLORS	CRCF	\$250.00	NO	NO
CASUAL COMMUNITY CARE HOME	CRCF	\$600.00	YES	YES
CLS CARE HOME	CRCF	\$250.00	NO	NO
DIVINE MANOR ASSISTED LIVING CENTER	CRCF	\$250.00	YES	NO
DOMINION SENIOR LIVING OF ANDERSON	CRCF	\$250.00	YES	NO
DOWDY'S COMMUNITY CARE HOME #2	CRCF	\$250.00	NO	NO
EASLEY PLACE- A CONTINUUM OF CARE COMMUNITY	CRCF	\$250.00	YES	NO
EASLEY PLACE NORTH- A CONTINUUM OF CARE COMMUNITY	CRCF	\$250.00	NO	NO
EASY LIVING	CRCF	\$250.00	YES	NO
FAIRVIEW PARK ASSISTED LIVING	CRCF	\$250.00	YES	NO
FAITH HOPE AND CHARITY RETIREMENT	CRCF	\$250.00	YES	NO
FLANAGAN COMMUNITY CARE HOME	CRCF	\$600.00	YES	YES
GABLES ON PELHAM ASSISTED LIVING AND MEMORY CARE	CRCF	\$250.00	YES	NO
GENERATIONS OF BATESBURG	CRCF	\$250.00	YES	NO
GRACELYNN RESIDENTIAL CARE FACILITY	CRCF	\$600.00	YES	YES

Facility Name	Facility Type	Civil Penalty	Payment Received	Repeat Violation
HARBORCHASE OF ROCK HILL	CRCF	\$250.00	YES	NO
HARMONY HOUSE RESIDENTIAL CARE	CRCF	\$250.00	NO	NO
HAVEN IN THE SUMMIT	CRCF	\$250.00	NO	NO
HELMS-GORDON RESIDENTIAL CARE HOME	CRCF	\$600.00	YES	YES
INLET COASTAL RESORT	CRCF	\$250.00	YES	NO
LAKEVIEW ASSISTED LIVING	CRCF	\$250.00	YES	NO
LEGACY AT SOUTHPOINTE DRIVE	CRCF	\$250.00	YES	NO
LEMONAIDE HOUSE	CRCF	\$250.00	YES	NO
LIGHTHOUSE RESIDENTIAL CARE	CRCF	\$250.00	YES	NO
MIRCI GROUP HOME I	CRCF	\$250.00	YES	NO
MIRCI GROUP HOME II	CRCF	\$250.00	YES	NO
MORNINGSIDE OF HARTSVILLE	CRCF	\$250.00	NO	NO
MORNINGSIDE OF SENECA	CRCF	\$250.00	YES	NO
NEW LIGHT COMMUNITY CARE	CRCF	\$250.00	YES	NO
NICHOLS RESIDENTIAL CARE	CRCF	\$250.00	YES	NO
NORTH POINTE ASSISTED LIVING	CRCF	\$250.00	YES	NO
OAKRIDGE COMMUNITY CARE HOME #2	CRCF	\$250.00	YES	NO
PARK CIRCLE HOME 2	CRCF	\$600.00	NO	YES
PARKER	CRCF	\$250.00	YES	NO
PEACHTREE CENTRE COMMUNITY RESIDENTIAL CARE FACILITY	CRCF	\$250.00	YES	NO
PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA-CLINTON	CRCF	\$250.00	YES	NO
PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA-COLUMBIA	CRCF	\$250.00	YES	NO
QUIET ACRES RETIREMENT HOME	CRCF	\$250.00	YES	NO
RESTING PLACE #1	CRCF	\$250.00	YES	NO
RETREAT AT LADYS ISLAND	CRCF	\$250.00	YES	NO
RIDGEVIEW COMMUNITY CARE HOMES UNIT A	CRCF	\$250.00	NO	NO
RIDGEVIEW COMMUNITY CARE HOMES UNIT B	CRCF	\$250.00	NO	NO
RIDGEVIEW COMMUNITY CARE HOMES UNIT C	CRCF	\$250.00	NO	NO
RIDGEVIEW COMMUNITY CARE HOMES UNIT D	CRCF	\$250.00	NO	NO
ROCKHAVEN COMMUNITY CARE HOME	CRCF	\$250.00	YES	NO
ROCKY RIVER BAPTIST ASSOCIATION RESIDENTIAL CARE HOME	CRCF	\$250.00	YES	NO
SANDPIPER COURTYARD ASSISTED LIVING	CRCF	\$250.00	NO	NO

Facility Name	Facility Type	Civil Penalty	Payment Received	Repeat Violation
SHERMAN RESIDENTIAL CARE	CRCF	\$250.00	YES	NO
SWEETGRASS COURT SENIOR LIVING COMMUNITY	CRCF	\$250.00	YES	NO
UPSTATE RESIDENTIAL CARE	CRCF	\$250.00	YES	NO
VARNVILLE COMMUNITY RESIDENCE	CRCF	\$250.00	YES	NO
VILLAGE COMMUNITY CARE HOME-UNIT A	CRCF	\$250.00	YES	NO
VILLAGE COMMUNITY CARE HOME-UNIT B	CRCF	\$250.00	YES	NO
VILLAGE COMMUNITY CARE HOME-UNIT C	CRCF	\$250.00	YES	NO
VILLAGE COMMUNITY CARE HOME-UNIT D	CRCF	\$250.00	YES	NO
VILLAGE INN COMMUNITY CARE HOME	CRCF	\$250.00	NO	NO
WATERCREST COLUMBIA ASSISTED LIVING AND MEMORY CARE	CRCF	\$250.00	YES	NO
WELLMORE OF LEXINGTON	CRCF	\$250.00	YES	NO
WEST END RETIREMENT CENTER INC	CRCF	\$250.00	NO	NO
WESTMINSTER MEMORY CARE - AIKEN	CRCF	\$250.00	YES	NO
WHITNEY PLACE	CRCF	\$250.00	YES	NO
BAYVIEW MANOR	Nursing Home	\$250.00	YES	NO
BLACKVILLE HEALTHCARE AND REHAB	Nursing Home	\$250.00	YES	NO
DUNDEE MANOR	Nursing Home	\$250.00	YES	NO
GREENVILLE POST ACUTE	Nursing Home	\$250.00	NO	NO
HALLMARK HEALTHCARE CENTER	Nursing Home	\$250.00	YES	NO
HONORAGE NURSING CENTER	Nursing Home	\$250.00	YES	NO
LAKE CITY-SCRANTON HEALTHCARE CENTER	Nursing Home	\$250.00	NO	NO
MAGNOLIA MANOR-GREENWOOD	Nursing Home	\$250.00	YES	NO
MIDLANDS HEALTH & REHABILITATION CENTER	Nursing Home	\$250.00	YES	NO
MILLENNIUM POST ACUTE REHABILITATION	Nursing Home	\$250.00	YES	NO
NHC HEALTHCARE PARKLANE	Nursing Home	\$250.00	YES	NO
PEACHTREE CENTRE	Nursing Home	\$250.00	YES	NO
PRINCE GEORGE HEALTHCARE CENTER	Nursing Home	\$250.00	YES	NO
PRUITTHEALTH- PICKENS	Nursing Home	\$250.00	YES	NO
PRUITTHEALTH- RIDGEWAY	Nursing Home	\$250.00	YES	NO
RETREAT AT WELLMORE OF LEXINGTON	Nursing Home	\$250.00	YES	NO

Facility Name	Facility Type	Civil Penalty	Payment Received	Repeat Violation
ROCK HILL POST ACUTE CARE CENTER	Nursing Home	\$250.00	YES	NO
SANDPIPER REHAB & NURSING	Nursing Home	\$250.00	YES	NO
SENIOR CARE OF MARION	Nursing Home	\$250.00	YES	NO
VALLEY FALLS TERRACE	Nursing Home	\$250.00	YES	NO
WHITE OAK MANOR SPARTANBURG	Nursing Home	\$250.00	YES	NO
WOODRUFF MANOR	Nursing Home	\$250.00	YES	NO

**Bureau of Healthcare Professionals**

Level of Certification	Total # of Certified EMTs
Emergency Medical Technician (EMT)	7,017

**3. Wilma Jane Hollifield – EMT**

Inspections and Investigations: The Department conducted an investigation in March 2020 and found that the EMT was in violation of regulatory requirements.

Violations: The Department determined that the EMT was in violation of Regulation 61-7, *Emergency Medical Services*, for abandoning a patient at the scene after the patient was treated for a suspected overdose. The EMT and their Paramedic partner left the patient at the scene in the custody of law enforcement rather than transporting the patient to the hospital.

Enforcement Action: The parties agreed to resolve the matter with a consent order. In October 2020, the parties executed a consent order suspending Ms. Hollifield’s EMT certification for a year. The EMT certification will be suspended for 30 days upon execution of the Consent Order. After the 30 day period, Ms. Hollifield can contact DHEC to request for reinstation of the EMT certification. Ms. Hollifield is also ordered to take the National Association of Emergency Medical Technicians’ Professional Ethics and Personal Leadership (PEPL) course within twelve months of the consent order being executed, and provide evidence of its completion to the Department. Should Ms. Hollifield fail to take the required PEPL course by the end of the twelfth-month period, the suspension will remain in effect until such time as Ms. Hollifield provides evidence to the Department of having successfully completed a PEPL course.

Remedial Action: Ms. Hollifield’s EMT certification remains suspended and she has not taken the required PEPL course yet.

Prior Enforcement Actions: None in the past five years.

SUMMARY SHEET  
 BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
 December 10, 2020

\_\_\_\_\_ ACTION/DECISION

X  INFORMATION

1. **TITLE:** Administrative and Consent Orders issued by the Office of Environmental Affairs.
2. **SUBJECT:** Administrative and Consent Orders issued by the Office of Environmental Affairs during the period October 1, 2020, through October 31, 2020.
3. **FACTS:** For the reporting period of October 1, 2020, through October 31, 2020, the Office of Environmental Affairs issued sixty-five (65) Consent Orders with total assessed civil penalties in the amount of one hundred eight thousand, eighty-five dollars (\$108,085.00). No Administrative Orders were reported during this period.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Orders	Assessed Penalties
<b>Land and Waste Management</b>				
UST Program	0	0	2	\$4,450.00
Aboveground Tanks	0	0	0	0
Solid Waste	0	0	2	\$5,900.00
Hazardous Waste	0	0	2	\$21,000.00
Infectious Waste	0	0	0	0
Mining	0	0	0	0
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>\$31,350.00</b>
<b>Water</b>				
Recreational Water	0	0	36	\$43,835.00
Drinking Water	0	0	6	\$12,000.00
Water Pollution	0	0	8	\$12,700.00
Dam Safety	0	0	0	0
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>50</b>	<b>\$68,535.00</b>
<b>Air Quality</b>				
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Environmental Health Services</b>				
Food Safety	0	0	7	\$5,700.00
Onsite Wastewater	0	0	2	\$2,500.00
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>\$8,200.00</b>
<b>OCRM</b>				
<b>SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>65</b>	<b>\$108,085.00</b>

Submitted by:

Myra C. Reece

Myra C. Reece  
 Director of Environmental Affairs

**ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT  
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL  
December 10, 2020**

**BUREAU OF LAND AND WASTE MANAGEMENT**

**Underground Storage Tank Enforcement**

- 1)     Order Type and Number:           Consent Order 20-0034-UST  
       Order Date:                    October 8, 2020  
       Individual/Entity:           **Rajwinder Manhiani**  
       Facility:                       Manis Mart  
       Location:                     211 Cary Drive  
  Beach Island, SC 29841  
       Mailing Address:           1000 Secession Circle  
  Martinez, GA 30907  
  
       County:                        Aiken  
       Previous Orders:             None  
       Permit/ID Number:         00176  
       Violations Cited:           The State Underground Petroleum  
       Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann., § 44-  
       2-10 et seq. (2018); and South Carolina Underground Storage Tank Control  
       Regulation, 7 S.C. Code Ann., Regs. 61-92.280.20(h)(4), 61-92.280.31(c), 61-  
       92.280.34, 61-92.280.34(c), 61-92.280.43(g), 61-92.280.45(b)(1), 61-92.280.50,  
       61-92.280.52, 61-92.280242(b)(3) (2012 & Supp. 2018).

Summary: Rajwinder Manhiani (Individual/Entity) owns underground storage tanks (USTs) located in Aiken County, South Carolina. The Department conducted an inspection on December 20, 2019. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to have properly designed, constructed, installed and maintained secondary containment systems; failed to inspect the impressed current system every sixty (60) days; failed to cooperate with the Department as requested; failed to provide the Department with records upon request; failed to conduct interstitial monitoring properly; failed to maintain records for at least one (1) year; failed to investigate and confirm a suspected release within a reasonable time; failed to report a suspected release; and, failed to validate that monthly requirements have been performed.

Action: The Individual/Entity is required to submit: a current liquid status report for all three (3) truck diesel STP sump sensors; hydrostatic testing results for the under-dispenser containment area for truck diesel dispenser #7; proof that a rectifier log is now being kept; and, a valid class AB operator log. The Department has assessed a total civil penalty in the amount of three thousand four hundred fifty dollars (\$3,450.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand four hundred fifty dollars (**\$3,450.00**) in accordance with the terms of a promissory note.

Update: The Individual/Entity has completed all violations in the Order and has paid the first quarterly installment of the civil penalty.



2) Order Type and Number: Consent Order 20-0162-UST  
Order Date: October 8, 2020  
Individual/Entity: **Savings Carolina Division**  
Facility: Savings STA & Dodges Store  
Location: 2609 Highway 17 South  
North Myrtle Beach, SC 29582  
Mailing Address: P.O. Box 1688  
Tupelo, MS 38802-1688  
County: Horry  
Previous Orders: 17-0191-UST (\$1,000.00)  
Permit/ID Number: 05764  
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 et seq. (2018) (SUPERB Act); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs. 61-92, 280.20(c)(1)(ii) (2012 and Supp. 2019).

Summary: Savings Carolina Division (Individual/Entity) owns and operates an underground storage tank (UST) in Horry, South Carolina. The Department conducted an inspection on August 25, 2020. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation as follows: failed to equip a permitted or upgraded site with overfill prevention equipment.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

Update: The violation was resolved during the August 25, 2020 inspection. The civil penalty has been paid in full and the enforcement action has been closed.

### **Solid Waste Enforcement**

3) Order Type and Number: Consent Order 20-20-SW  
Order Date: October 2, 2020  
Individual/Entity: **Tri-D Materials, LLC**  
Facility: TMS # R31600-06-08  
Location: 1692 Highway Church Road  
Elgin, SC 29045  
Mailing Address: 4163 Sandwood Drive  
Columbia, SC 29206  
County: Richland  
Previous Orders: None  
Permit/ID Number: N/A  
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 et seq. (2002 & Supp. 2018); Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part IV.A.3 (Rev. 2008 and Supp. 2016).

Summary: Tri-D Materials, LLC (Individual/Entity) owns property in Elgin, South Carolina. The Department conducted a complaint investigation on May 26, 2020. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation as follows: operated Class Two Landfill without a Department issued permit.

Action: The Individual/Entity is required to: immediately cease accepting new construction and demolition (C&D) debris and all processing activities at the Site; remove all C&D debris present at the Site and submit disposal receipts to the Department; and obtain a Solid Waste Processing Permit prior to resuming any recycling/processing activities by November 16, 2020. The Department has assessed a total civil penalty in the amount of five thousand, four hundred dollars (\$5,400.00). The Individual/Entity shall pay a civil penalty in the amount of five thousand, four hundred dollars (**\$5,400.00**) by November 16, 2020.

Update: The Site has been cleaned up to the Department's satisfaction and the civil penalty has been paid in full and the enforcement action has been closed.

4) Order Type and Number: Consent Order 20-24-SW  
Order Date: October 22, 2020  
Individual/Entity: **Dale L. Stancil**  
Facility: TMS # 4049-00-57-4717  
Location: Old Keowee Church Road  
Six Mile, SC 29585  
Mailing Address: 258 Old Keowee Church Road  
Six Mile, SC 29585  
County: Pickens  
Previous Orders: None  
Permit/ID Number: N/A  
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 *et seq.* (2002 & Supp. 2018); Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part II.B.1 (Rev. 2008 and Supp. 2016).

Summary: Dale L. Stancil (Individual/Entity), owns property located in Six Mile, South Carolina. The Department conducted an inspection on September 2, 2019. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation as follows: operated a Structural Fill without a Department issued permit.

Action: The Individual/Entity is required to: remove all solid waste debris present at the Site and submit disposal receipts as proof of proper disposal by December 6, 2020. The Department has assessed a total civil penalty in the amount of three thousand, five hundred dollars (\$3,500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**) and pay a suspended penalty in the amount of three thousand dollars (\$3,000.00) should any requirement of the Order not be met.

Update: The civil penalty was paid on October 16, 2020.



<u>Mailing Address:</u>	Same
<u>County:</u>	Lancaster
<u>Previous Orders:</u>	N/A
<u>Permit/ID Number:</u>	SCR 000 772 764
<u>Violations Cited:</u>	The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 <u>et seq.</u> (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Kershaw Mineral Lab (Individual/Entity) specializes in soil sample analysis for the adjacent gold mine, OceanaGold Haile Gold Mine, at its facility located in Kershaw County, South Carolina. The Department conducted an inspection on March 12, 2020. The Individual/Entity has violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations, as follows: failed to mark or label its containers with the words ‘Hazardous Waste’, an indication of the hazards of the contents, and the date upon which each period of accumulation begins; accumulated hazardous waste in excess of 55 gallons; failed to comply within three (3) consecutive calendar days with the applicable central accumulation area regulations in 262.16(b) or 262.17(a) or remove the excess from the satellite accumulation area within three (3) consecutive calendar days; failed to manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment; failed to ensure that each lamp or a container or package in which such lamps are contained is labeled or marked clearly with one of the following phrases: “Universal Waste- Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s)””; failed to demonstrate the length of time the universal waste had been accumulated by placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; failed to keep a copy of each manifest signed onsite for three (3) years or until he receives copy from the designated facility which received the waste; failed to prepare and no later than thirty (30) days after the end of each calendar quarter, submit a written report to the Department; failed to receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter and submit an Exception Report to the Agency if it has not received a copy of the manifest; failed to have a contingency plan for the facility, failed to attempt to make arrangements with the local emergency response teams; failed to record inspections in an inspection log or summary; failed to at least weekly, inspect central accumulation areas; failed to have facility personnel successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties; failed to ensure that facility personnel must take part in an annual review of the initial training required; failed to maintain the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job, a written job description for each position, a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position, and records that document that the training or job experience has been given to, and completed by, facility personnel; and failed to ensure that training records on current personnel are kept until closure of the facility and training records on former employees are kept for at least three (3) years from the date the employee last worked at the facility.

Action: The Individual/Entity is required to: submit to the Department for review and approval, a contingency plan and a hazardous waste training program meeting the requirements of the regulation by January 13, 2021; within fifteen (15) days of receipt of any written comments or deficiencies from the Department’s review of the contingency



Facility: Home 2 Suites Charleston  
Location: 3401 W Montague Avenue  
North Charleston, SC 29418  
Mailing Address: 814 Main Street  
Richmond, VA 23219  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-1195B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Apple Ten Business Trust (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 25, 2020, and August 5, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the bound and numbered log book was not maintained on a daily basis; the cyanuric acid level was not checked weekly; depth marker tiles were obstructed; the chlorine level was not within the acceptable range of water quality standards; and, only one “Shallow Water – No Diving Allowed” sign was posted.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

9) Order Type and Number: Consent Order 20-088-RW  
Order Date: October 6, 2020  
Individual/Entity: **Lakeshore Homeowners’ Association, Inc.**  
Facility: Lakeshore  
Location: Lot 43 Lakeshore Drive  
Mount Pleasant, SC 29464  
Mailing Address: 1292 Deep Water Drive  
Mount Pleasant, SC 29464  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-478-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Lakeshore Homeowners’ Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 8, 2020, and July 20, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the bound and numbered log book was not maintained on a daily basis; a depth marker tile was cracked; a gate did not self-close and latch; the emergency notification device was not operational; the cyanuric acid level was not checked weekly; and, the pool rules sign was not completely filled out.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

10) Order Type and Number: Consent Order 20-089-RW  
Order Date: October 6, 2020  
Individual/Entity: **Legacy Fort Mill, LLC**  
Facility: Legacy Fort Mill Apartments  
Location: 700 Gates Mills Drive  
Fort Mill, SC 29708  
Mailing Address: Same  
County: York  
Previous Orders: None  
Permit/ID Number: 46-1125B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Legacy Fort Mill, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in York County, South Carolina. The Department conducted inspections on June 12, 2020, and July 15, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the waterline tiles were dirty; the pool furniture was not at least four feet from the edge of the pool; there was debris in the skimmer baskets; the gates did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the life ring rope was deteriorated; the log book was not properly bound and numbered; and, a skimmer was missing a weir.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

11) Order Type and Number: Consent Order 20-090-RW  
Order Date: October 6, 2020  
Individual/Entity: **Strata Audubon, LLC**  
Facility: Audubon Park Apartments  
Location: 1700 Eagle Landing Boulevard  
Hanahan, SC 29406  
Mailing Address: Same  
County: Berkeley  
Previous Orders: None  
Permit/ID Number: 08-065-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Strata Audubon, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Berkeley County, South Carolina.

The Department conducted inspections on July 10, 2020, and August 10, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the bathrooms did not have soap, paper towels, or a hand dryer; the drinking water fountain was missing; the pool equipment room was not locked to prevent unauthorized access; the gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; and, the bound and numbered log book was not available for Department review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

12)	<u>Order Type and Number:</u>	Consent Order 20-091-RW
	<u>Order Date:</u>	October 6, 2020
	<u>Individual/Entity:</u>	<b>Eagle Pointe Landowners Association, Inc.</b>
	<u>Facility:</u>	Eagle Pointe
	<u>Location:</u>	Eagle Pointe Drive Chapin, SC 29036
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Lexington
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	32-1019B
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Eagle Pointe Landowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Lexington County, South Carolina. The Department conducted inspections on June 10, 2020, July 17, 2020, and August 13, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the drinking water fountain was not operating properly; the current annual operating permit fee receipt was not posted in the pump room; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not legible and was not completely filled out; only one “Shallow Water – No Diving Allowed” sign was posted; only one “No Lifeguard On Duty – Swim At Your Own Risk” sign was posted; the current pool operator of record information was not posted to the public; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of two thousand, forty dollars (\$2,040.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand, forty dollars (**\$2,040.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

13)	<u>Order Type and Number:</u>	Consent Order 20-092-RW
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Order Date: October 8, 2020  
Individual/Entity: **Clemson Lofts P1, LLC**  
Facility: Clemson Lofts  
Location: 111 Cochran Road  
Clemson, SC 29631  
Mailing Address: P.O. Box 4369  
Jackson, WY 83001  
County: Pickens  
Previous Orders: 18-074-RW (\$680.00)  
Permit/ID Number: 39-1074B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Clemson Lofts P1, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Pickens County, South Carolina. The Department conducted inspections on June 2, 2020, and July 17, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the life ring was not United States Coast Guard approved; the life ring did not have a permanently attached rope; the emergency notification device was not operational; the facility address was not posted at the emergency notification device; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars (\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

14) Order Type and Number: Consent Order 20-093-RW  
Order Date: October 2, 2020  
Individual/Entity: **C.F. Deer Run Associates,  
Limited Partnership**  
Facility: Deer Run Apartments  
Location: 8755 Jenny Lind Street  
Charleston, SC 29418  
Mailing Address: Same  
County: Charleston  
Previous Orders: 18-041-RW (\$680.00)  
Permit/ID Number: 10-264-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: C.F. Deer Run Associates, Limited Partnership (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on July 1, 2020, and August 11, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: depth marker tiles were broken; a skimmer was missing a weir; there were chlorine tablets in the skimmer baskets; the chlorine and pH levels were not within the acceptable range of water quality standards; the drinking water fountain was not operating properly; the

cyanuric acid level was above the water quality standards acceptable limit; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars (\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

15) Order Type and Number: Consent Order 20-094-RW  
Order Date: October 6, 2020  
Individual/Entity: **HBW Golf, LLC**  
Facility: Woodlands Country Club  
Location: 100 Norse Way  
Columbia, SC 29229  
Mailing Address: Same  
County: Richland  
Previous Orders: None  
Permit/ID Number: 40-337-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: HBW Golf, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Richland County, South Carolina. The Department conducted inspections on June 25, 2020, and August 10, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the pool wall and floor were dirty; a gate did not self-close and latch; the bound and numbered log book was not maintained on a daily basis on the first inspection, and the bound and numbered log book was not available for review on the second inspection; and, the recirculation and filtration system was leaking.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

16) Order Type and Number: Consent Order 20-095-RW  
Order Date: October 6, 2020  
Individual/Entity: **LeGrand Hotels, LLC**  
Facility: Residence Inn by Marriott  
Location: 2320 Legrand Road  
Columbia, SC 29223  
Mailing Address: Same  
County: Richland  
Previous Orders: None  
Permit/ID Number: 40-1039D  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: LeGrand Hotels, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa located in Richland County, South Carolina. The Department conducted inspections on May 29, 2020, and July 1, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pool walls were dirty; the chlorine and pH levels were not within the acceptable range of water quality standards; the spa temperature was too high; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

17) Order Type and Number: Consent Order 20-096-RW  
Order Date: October 8, 2020  
Individual/Entity: **Sandy Shores, LLC**  
Facility: Palmetto Shores RV Resort  
Location: 5215 Dingle Pond Road  
Summerton, SC 29148  
Mailing Address: Same  
County: Clarendon  
Previous Orders: None  
Permit/ID Number: 14-1006C  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sandy Shores, LLC (Individual/Entity) leases and is responsible for the proper operation and maintenance of a kiddie pool located in Clarendon County, South Carolina. The Department conducted inspections on July 1, 2020, July 16, 2020, and August 4, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the skimmers were missing weirs; and, the chlorine and pH levels were not within the acceptable range of water quality standards.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of two thousand, forty dollars (\$2,040.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand, forty dollars (**\$2,040.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

18) Order Type and Number: Consent Order 20-097-RW  
Order Date: October 8, 2020  
Individual/Entity: **Edgewater Plantation Owner, LLC**  
Facility: Edgewater Plantation Apartments  
Location: 100 Eighty Oak Avenue  
Mount Pleasant, SC 29464

Mailing Address: 3340 Peachtree Road, Suite 2250  
Atlanta, GA 30326  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-618-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Edgewater Plantation Owner, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 1, 2020, and July 23, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers and was not tight and secure; the emergency notification device was not operational; the pool rules sign was not completely filled out and did not have all of the required rules; the “Shallow Water – No Diving Allowed” signs posted did not have the correct size lettering and wording; the “No Lifeguard On Duty – Swim At Your Own Risk” signs posted did not have the correct size lettering and wording; the current pool operator of record information was not posted to the public; the pool equipment room was not locked; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

19) Order Type and Number: Consent Order 20-098-RW  
Order Date: October 12, 2020  
Individual/Entity: **Daniel’s Landing Homeowners’ Association**  
Facility: Daniel’s Landing  
Location: 130 River Landing Drive  
Daniel Island, SC 29492  
Mailing Address: 130 River Landing Drive, Suite 2000  
Daniel Island, SC 29492  
County: Berkeley  
Previous Orders: None  
Permit/ID Number: 10-621-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Daniel’s Landing Homeowners’ Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa located in Berkeley County, South Carolina. The Department conducted inspections on June 2, 2020, and July 13, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards; and, the cyanuric acid level was above the water quality standards acceptable limit.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The

Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

20) Order Type and Number: Consent Order 20-099-RW  
Order Date: October 8, 2020  
Individual/Entity: **TD Ripley Hotel SH, LLC**  
Facility: Springhill Suites  
Location: 98 Ripley Point Drive  
Charleston, SC 29407  
Mailing Address: 60 Pointe Circle  
Greenville, SC 29615  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-566-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: TD Ripley Hotel SH, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 18, 2020, and July 28, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the pool equipment room was not accessible; the gate did not self-close and latch; the chlorine level was not within the acceptable range of water quality standards; the life ring rope was too short; the shepherd's crook was missing a bolt and was not permanently attached to the handle; the cyanuric acid level was above the water quality standards acceptable limit; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

21) Order Type and Number: Consent Order 20-100-RW  
Order Date: October 9, 2020  
Individual/Entity: **Beaufort Lodging, LLC**  
Facility: Hampton Inn  
Location: 2342 Boundary Street  
Beaufort, SC 29902  
Mailing Address: Same  
County: Beaufort  
Previous Orders: 16-115-RW (\$680.00)  
18-134-RW (\$1,360.00)  
Permit/ID Number: 07-502-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Beaufort Lodging, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Beaufort County, South Carolina. The Department conducted inspections on July 30, 2020, and August 11, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; skimmers were missing weirs; the chlorine level was not within the acceptable range of water quality standards; the “Shallow Water – No Diving Allowed” signs posted did not have the appropriate size letters; the “No Lifeguard On Duty – Swim At Your Own Risk” signs posted did not have the appropriate size letters; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of three thousand, two hundred dollars (\$3,200.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand, two hundred dollars (**\$3,200.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

22) <u>Order Type and Number:</u>	Consent Order 20-101-RW
<u>Order Date:</u>	October 12, 2020
<u>Individual/Entity:</u>	<b>Hospitality South, LLC</b>
<u>Facility:</u>	Comfort Inn & Suites
<u>Location:</u>	196 Patriots Point Road Mt. Pleasant, SC 29464
<u>Mailing Address:</u>	132 Assembly Drive #102 Mooresville, NC 28117
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	10-547-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Hospitality South, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 17, 2020, and July 28, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing non-slip tread inserts; a skimmer was missing a weir; a gate did not self-close and latch; the pool equipment room was not accessible; the chemical storage room was not accessible; the pH level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit; the shepherd’s crook was not permanently attached to the handle; the pool rules sign was not completely filled out; the current pool operator of record information was not posted to the public; the recirculation and filtration system was not operating properly; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

23)	<u>Order Type and Number:</u>	Consent Order 20-102-RW
	<u>Order Date:</u>	October 13, 2020
	<u>Individual/Entity:</u>	<b>Waterford Horizontal Property Regime, Inc. of Charleston</b>
	<u>Facility:</u>	Waterford
	<u>Location:</u>	2011 North Highway 17 Mount Pleasant, SC 29466
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-312-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Waterford Horizontal Property Regime, Inc. of Charleston (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 15, 2020, and July 23, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; ladders were not tight and secure; there was debris in the skimmer baskets; the bathrooms were not accessible; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; a ladder was missing bumpers; the pool equipment room and the chemical storage room were not accessible; and, the bound and numbered log book was not available for Department review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

24)	<u>Order Type and Number:</u>	Consent Order 20-103-RW
	<u>Order Date:</u>	October 13, 2020
	<u>Individual/Entity:</u>	<b>Kiawah Island Club Holdings, LLC</b>
	<u>Facility:</u>	Kiawah Island Beach Club
	<u>Location:</u>	225 Ocean Marsh Road Kiawah Island, SC 29455
	<u>Mailing Address:</u>	660 Kestrel Court Kiawah Island, SC 29455
	<u>County:</u>	Charleston
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	10-480-1
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Kiawah Island Club Holdings, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on May 26, 2020, and June 24, 2020, and violations were issued for failure to properly operate and maintain. The

Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine and pH levels were not within the acceptable range of water quality standards.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

25) Order Type and Number: Consent Order 20-104-RW  
Order Date: October 13, 2020  
Individual/Entity: **Lake Aire RV Park, LLC**  
Facility: Lake Aire Campground  
Location: 4375 Highway 162  
Hollywood, SC 29449  
Mailing Address: Same  
County: Charleston  
Previous Orders: 15-060-RW (\$1,020.00)  
18-277-RW (\$1,360.00)  
Permit/ID Number: 10-420-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Lake Aire RV Park, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 1, 2020, and July 7, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the chlorine level was not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; there were no “No Lifeguard On Duty – Swim At Your Own Risk” signs posted, and no “Shallow Water – No Diving Allowed” signs posted on the first inspection; and, only one “No Lifeguard On Duty – Swim At Your Own Risk” sign was posted on the second inspection.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of three thousand, two hundred dollars (\$3,200.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand, two hundred dollars (**\$3,200.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

26) Order Type and Number: Consent Order 20-105-RW  
Order Date: October 15, 2020  
Individual/Entity: **Charleston Palmetto Property, LLC**  
Facility: Palmetto Grove Apartments  
Location: 7927 St. Ives Road  
North Charleston, SC 29406  
Mailing Address: Same  
County: Charleston



Previous Orders: None  
Permit/ID Number: 10-426-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Charleston Palmetto Property, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on July 14, 2020, and August 11, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; the cyanuric acid level was above the water quality standards acceptable limit and was not checked weekly; and, only one "Shallow Water – No Diving Allowed" sign was posted.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

27) Order Type and Number: Consent Order 20-106-RW  
Order Date: October 16, 2020  
Individual/Entity: **Regal Manor Homeowners' Association, Inc.**  
Facility: Regal Manor  
Location: 549 Starlight Drive  
Fort Mill, SC 29715  
Mailing Address: 1315 Mockingbird Lane, Suite 600  
Charlotte, NC 28209  
County: York  
Previous Orders: 19-193-RW (\$1,360.00)  
Permit/ID Number: 46-1085C  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Regal Manor Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a kiddie pool located in York County, South Carolina. The Department conducted inspections on June 11, 2020, and July 10, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer basket was floating; the pool equipment room was not locked; the flow meter was not operating; the fill spout was not stainless steel or equivalent; the chlorine level was not within the acceptable range of water quality standards; the pool rules sign was not completely filled out; the cyanuric acid level was not checked weekly; the disinfection equipment was leaking; there was water on the floor of the pool equipment room; and, the bound and numbered log book was not maintained a minimum of three times per week by the pool operator of record.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars

(\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

28) Order Type and Number: Consent Order 20-107-RW  
Order Date: October 15, 2020  
Individual/Entity: **4PR, Inc.**  
Facility: Best Western Patriots Point  
Location: 259 McGrath Darby Boulevard  
Mount Pleasant, SC 29464  
Mailing Address: Same  
County: Charleston  
Previous Orders: 18-151-RW (\$680.00)  
Permit/ID Number: 10-569-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: 4PR, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 18, 2020, and July 27, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing a non-slip tread; the chlorine and pH levels were not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the “No Lifeguard On Duty – Swim At Your Own Risk” signs posted were in disrepair; the “Shallow Water – No Diving Allowed” signs posted were in disrepair; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars (\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

29) Order Type and Number: Consent Order 20-108-RW  
Order Date: October 15, 2020  
Individual/Entity: **Coopers Ridge Apartments, LLC**  
Facility: Coopers Ridge Apartments  
Location: 3851 Ladson Road  
Ladson, SC 29458  
Mailing Address: 10 South Cardinal Drive  
Wilmington, NC 28403  
County: Berkeley  
Previous Orders: None  
Permit/ID Number: 08-1037B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Coopers Ridge Apartments, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Berkeley County,

South Carolina. The Department conducted inspections on June 8, 2020, and August 7, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the foot rinse shower was not operating; a light in the pool wall was out of its niche; depth marker tiles on the deck were broken; a ladder was missing bumpers; the chlorine level was not within the acceptable range of water quality standards; and, the emergency notification device was not operating.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

30) <u>Order Type and Number:</u>	Consent Order 20-109-RW
<u>Order Date:</u>	October 15, 2020
<u>Individual/Entity:</u>	<b>KRC Grove at Spring Valley, LLC</b>
<u>Facility:</u>	KRC Wildewood
<u>Location:</u>	127 Sparkleberry Lane Columbia, SC 29223
<u>Mailing Address:</u>	Same
<u>County:</u>	Richland
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	40-331-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: KRC Grove at Spring Valley, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Richland County, South Carolina. The Department conducted inspections on June 2, 2020, and August 7, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the depth marker tiles on the pool deck were missing; a ladder was missing non-slip tread inserts and bumpers; the plaster on the pool floor and walls was deteriorated; the pool floor and walls were not clean; the waterline tiles were not clean; there was algae on the pool floor and walls; the drinking water fountain was not operating properly; the pool entrance gate and door were open and unlocked; the chlorine and pH levels were not within the acceptable range of water quality standards; the main drain grates were not visible due to cloudy water; the life ring rope was deteriorated; the pool rules sign was not completely filled out; the bound and numbered log book was not available for Department review; the disinfection equipment was not operating properly; and, the recirculation and filtration system was not operating.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

31) Order Type and Number: Consent Order 20-110-RW  
Order Date: October 15, 2020  
Individual/Entity: **1140 Ocean Boulevard Homeowners' Association**  
Facility: 1140 Ocean Boulevard  
Location: 1140 Ocean Boulevard  
Isle of Palms, SC 29451  
Mailing Address: Same  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-616-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(K)(1)(c)

Summary: 1140 Ocean Boulevard Homeowners' Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. On June 22, 2020, the Department conducted a follow-up inspection of the pool and it was determined that the pool was open prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the pool was operating prior to receiving Department approval.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of two hundred fifty-five dollars (\$255.00). The Individual/Entity shall pay a civil penalty in the amount of two hundred fifty-five dollars (**\$255.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

32) Order Type and Number: Consent Order 20-111-RW  
Order Date: October 15, 2020  
Individual/Entity: **Sullivan's House Council of Co-Owners, Inc.**  
Facility: Sullivan's House  
Location: 2302 Middle Street  
Sullivan's Island, SC 29482  
Mailing Address: 4401 Leeds Ave., Suite 120  
North Charleston, SC 29405  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-1358B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sullivan's House Council of Co-Owners, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 5, 2020, and July 16, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the shepherd's crook was obstructed; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out and was not legible; and, there were chlorine sticks in the skimmer baskets.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

33) Order Type and Number: Consent Order 20-112-RW  
Order Date: October 22, 2020  
Individual/Entity: **Kimberly Woods Swim and Racquet Club, Inc.**  
Facility: Kimberly Woods  
Location: 760 Ottawa Drive  
Rock Hill, SC 29732  
Mailing Address: 3437 Goodplace Road  
Rock Hill, SC 29732  
County: York  
Previous Orders: None  
Permit/ID Number: 46-041-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Kimberly Woods Swim and Racquet Club, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in York County, South Carolina. The Department conducted inspections on July 9, 2020, and August 12, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the bathrooms did not have paper towels or a hand dryer; the pool equipment room was not accessible during the first inspection; the electrical box in the pool equipment room was open during the second inspection; a section of the perimeter fencing had openings greater than four inches; there was no emergency notification device; the pool hours posted did not include specific times or "Sunrise to Sunset"; a lifeline with floats was not attached to the pool wall; tiles on the pool wall were broken; a skimmer basket was missing; a light in the pool wall was out of its niche; there was no flow meter; a gate did not self-close and latch; the life ring was deteriorated; one of the "No Lifeguard On Duty – Swim At Your Own Risk" signs posted was in disrepair; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty is to be paid in two installments of three hundred forty dollars (\$340.00) each. The first installment has been paid. The second installment payment is due April 1, 2021.

34) Order Type and Number: Consent Order 20-113-RW  
Order Date: October 22, 2020  
Individual/Entity: **Seascope Villas Horizontal Property Regime, Inc.**

Facility: Seascape Villas  
Location: 9002 Palmetto Drive  
Isle of Palms, SC 29541  
Mailing Address: Same  
County: Charleston  
Previous Orders: None  
Permit/ID Number: 10-267-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Seascape Villas Horizontal Property Regime, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 17, 2020, and July 21, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; some of the depth marker tiles were not attached to the pool deck; a ladder was missing bumpers; there was no foot rinse shower; the fill spout was not stainless steel or equivalent; only one "Shallow Water – No Diving Allowed" sign was posted; the pool equipment and chemical storage rooms were not accessible; and, the chlorine level was not within the acceptable range of water quality standards.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

35) Order Type and Number: Consent Order 20-114-RW  
Order Date: October 22, 2020  
Individual/Entity: **Ayrshire Homeowners Association, Inc.**  
Facility: Ayrshire  
Location: 1091 Archibald Avenue  
Fort Mill, SC 29708  
Mailing Address: 130 Ben Casey Drive, Suite 100  
Fort Mill, SC 29708  
County: York  
Previous Orders: None  
Permit/ID Number: 46-1169G  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Ayrshire Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in York County, South Carolina. The Department conducted inspections on June 15, 2020, and July 13, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was missing bumpers; the drinking water fountain was not operating properly; the pH level was not within the acceptable range of water quality standards; only one "No Lifeguard On Duty – Swim At Your Own Risk" sign was posted; the bound and numbered log book was not maintained on a daily basis; and, the recirculation and filtration system was leaking.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

36) Order Type and Number: Consent Order 20-115-RW  
Order Date: October 22, 2020  
Individual/Entity: **Noma Owner, LLC**  
Facility: Noma Flats  
Location: 2637 River Drive  
Columbia, SC 29201  
Mailing Address: Same  
County: Richland  
Previous Orders: None  
Permit/ID Number: 47-017-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J) &  
61-51(K)(1)(c)

Summary: Noma Owner, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Richland County, South Carolina. The Department conducted inspections on June 12, 2020, July 13, 2020, and July 24, 2020, and violations were issued for failure to properly operate and maintain, and for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a lifeline with floats was not attached to the pool wall; the pool floor was dirty; the pool equipment room was not accessible; a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; there was no United States Coast Guard approved life ring; there was no emergency notification device; there was no pool rules sign; the current pool operator of record information was not posted to the public; the bound and numbered log book was not available for review during the first inspection and was not maintained daily during subsequent inspections; a handrail was not tight and secure; there was debris in the skimmer baskets; the water level was too low; the emergency notification device was not operational; and, the pool was operating prior to receiving Department approval.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of two thousand, seven hundred twenty dollars (\$2,720.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand, seven hundred twenty dollars (**\$2,720.00**)

Update: The civil penalty has been paid. This project and Order have been closed.

37) Order Type and Number: Consent Order 20-116-RW  
Order Date: October 22, 2020  
Individual/Entity: **Sandtrap and Robinson, Inc.**  
Facility: Robinson Cottage  
Location: 211 31<sup>st</sup> Avenue North  
North Myrtle Beach, SC 29577  
Mailing Address: 500 Main Street

North Myrtle Beach, SC 29582  
County: Horry  
Previous Orders: 19-222-RW (\$680.00)  
Permit/ID Number: 26-R12-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Sandtrap and Robinson, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Horry County, South Carolina. The Department conducted inspections on June 1, 2020, and June 26, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a handrail was not tight and secure; a ladder was missing bumpers; the deck was chipped; the pH level was not within the acceptable range of water quality standards; the emergency notification device was not operational; the facility address was not posted at the emergency notification device; the pool rules sign was not completely filled out; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars (\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

38) Order Type and Number: Consent Order 20-117-RW  
Order Date: October 22, 2020  
Individual/Entity: **Wildewood Community Partners Group, Inc.**  
Facility: Wildewood Club  
Location: 90 Mallet Hill Road  
Columbia, SC 29223  
Mailing Address: Same  
County: Richland  
Previous Orders: None  
Permit/ID Number: 40-349-1  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Wildewood Community Partners Group, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Richland County, South Carolina. The Department conducted inspections on June 1, 2020, and June 29, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: there was standing water on the pool deck; a skimmer cover was broken; there was no drinking water fountain; the chlorine and pH levels were not within the acceptable range of water quality standards; the facility address posted at the emergency notification device was not permanent and weather-resistant; and, the bound and numbered log book was not available for review.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The



Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

39) Order Type and Number: Consent Order 20-118-RW  
Order Date: October 22, 2020  
Individual/Entity: **North Beach Towers Homeowners' Association, Inc.**  
Facility: North Beach Towers  
Location: 101 48<sup>th</sup> Avenue South  
Myrtle Beach, SC 29582  
Mailing Address: 7400 North Kings Highway  
Myrtle Beach, SC 29572  
County: Horry  
Previous Orders: None  
Permit/ID Number: 26-1710B  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: North Beach Towers Homeowners' Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Horry County, South Carolina. The Department conducted inspections on June 11, 2020, and July 13, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a ladder was not tight and secure and was missing bumpers; a skimmer was missing a weir; the chlorine level was not within the acceptable range of water quality standards; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

40) Order Type and Number: Consent Order 20-119-RW  
Order Date: October 22, 2020  
Individual/Entity: **Brothers Property Management Corporation**  
Facility: Charleston Harbor Resort & Marina Hotel  
Location: 20 Patriots Point Road  
Mount Pleasant, SC 29464  
Mailing Address: Same  
County: Charleston  
Previous Orders: 19-063-RW (\$680.00)  
Permit/ID Number: 10-1260D  
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Brothers Property Management Corporation (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa located in Charleston

County, South Carolina. The Department conducted inspections on June 17, 2020, and July 27, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; the chlorine and pH levels were not within the acceptable range of water quality standards; the spa temperature was not monitored; and, the bound and numbered log book was not maintained on a daily basis.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, six hundred dollars (\$1,600.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, six hundred dollars (**\$1,600.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

41) <u>Order Type and Number:</u>	Consent Order 20-120-RW
<u>Order Date:</u>	October 28, 2020
<u>Individual/Entity:</u>	<b>Dovefield Homeowners Association, Inc.</b>
<u>Facility:</u>	Dovefield Condominiums
<u>Location:</u>	2186 Bees Ferry Road Charleston, SC 29407
<u>Mailing Address:</u>	P.O. Box 80016 Charleston, SC 29416
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	10-248-1
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J) & 61-51(K)(1)(c)

Summary: Dovefield Homeowners Association, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on May 28, 2020, and June 29, 2020, and violations were issued for failure to properly operate and maintain, and on June 2, 2020, the Department conducted a follow-up inspection and a violation was issued for re-opening prior to receiving Department approval. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the lifeline floats were not properly spaced; there were non-pool related items stored in the equipment room; the life ring was not properly hung in its designated location; the shepherd's crook was not properly mounted in its designated location; there was no emergency notification device; the bound and numbered log book was not maintained on a daily basis; the pH level was not within the acceptable range of water quality standards; a light in the pool wall was out of its niche; and, the pool was operating prior to receiving Department.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of one thousand, twenty dollars (\$1,020.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand, twenty dollars (**\$1,020.00**).

Update: The civil penalty has been paid. This Order has been closed.

42) <u>Order Type and Number:</u>	Consent Order 20-121-RW
<u>Order Date:</u>	October 27, 2020
<u>Individual/Entity:</u>	<b>Lowcountry Hotels II, LLC</b>
<u>Facility:</u>	DoubleTree by Hilton Hotel
<u>Location:</u>	5264 International Boulevard North Charleston, SC 29418
<u>Mailing Address:</u>	Same
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	10-1101B
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-51(J)

Summary: Lowcountry Hotels II, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a pool located in Charleston County, South Carolina. The Department conducted inspections on June 24, 2020, and August 4, 2020, and violations were issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: a skimmer was missing a weir; a gate did not self-close and latch; the chlorine and pH levels were not within the acceptable range of water quality standards; the bound and numbered log book was not maintained on a daily basis; a ladder was missing bumpers; and, a light in the pool wall was out of its niche.

Action: The Individual/Entity has corrected all violations. The Department has assessed a total civil penalty in the amount of six hundred eighty dollars (\$680.00). The Individual/Entity shall pay a civil penalty in the amount of six hundred eighty dollars (**\$680.00**).

Update: The civil penalty has been paid. This project and Order have been closed.

### **Drinking Water Enforcement**

43) <u>Order Type and Number:</u>	Consent Order 20-022-DW
<u>Order Date:</u>	October 15, 2020
<u>Individual/Entity:</u>	<b>Brays Island Plantation Colony, Inc.</b>
<u>Facility:</u>	The Barony House Inn & Brays Island Golf Club
<u>Location:</u>	22 Brays Island Road Sheldon, SC 29441
<u>Mailing Address:</u>	P.O. Box 30 Sheldon, SC 29441
<u>County:</u>	Beaufort
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	0770233 & 0772002
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.1.B & 61-58.1.K(1)

Summary: Brays Island Plantation Colony, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of two public water systems (PWSs) located in Beaufort County, South Carolina. On July 30, 2020, Department staff conducted

a site visit at the PWSs and observed that water filtration systems had been installed and were operating prior to obtaining the proper permits and approvals to operate from the Department. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: failure to obtain permits to construct and written approvals to operate from the Department prior to the construction and operation of two water filtration systems.

Action: The Individual/Entity is required to: by November 15, 2020, submit complete construction permit applications to the Department, and within thirty days of the issuance of the permits, make any required alterations to the water filtration systems in accordance with the permits, and contact the Department to obtain written approvals to operate. The Department has assessed a total civil penalty in the amount of sixteen thousand dollars (\$16,000.00). The Individual/Entity shall pay a civil penalty in the amount of eight thousand dollars (**\$8,000.00**) and pay a stipulated penalty in the amount of eight thousand dollars (\$8,000.00) should any requirement of the Order not be met.

Update: The assessed civil penalty has been paid. The construction permit applications were submitted to the Department for review on November 5, 2020.

44) <u>Order Type and Number:</u>	Consent Order 20-023-DW
<u>Order Date:</u>	October 6, 2020
<u>Individual/Entity:</u>	<b>Town of Lynchburg</b>
<u>Facility:</u>	Town of Lynchburg
<u>Location:</u>	Highway 76 E Lynchburg, SC 29080
<u>Mailing Address:</u>	P.O. Box 147 Lynchburg, SC 29080
<u>County:</u>	Lee
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	3110002
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.2.B.1(a); 61-58.7; 61-58.8.B

Summary: The Town of Lynchburg (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Lee County, South Carolina. The Department conducted an inspection on July 15, 2020, and the PWS was rated unsatisfactory for failure to properly operate and maintain, failure to provide a minimum of two independent sources of groundwater, and failure to maintain an up-to-date copy of an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: only one well was operational; documentation was not provided to verify that the chlorine used for treatment was certified by the National Sanitation Foundation; the pre-filtration chlorine feed was not operational; the lime feed tank was not covered; the pre-filtration and post-filtration lime feeds were not operating properly; the chemical injection points were not labeled and color coded; hydrant flow testing records were not provided for review; there was a leaking valve at the treatment plant; a water audit had not been completed for 2019; approximately sixty water meters were not operational; the storage tank and its appurtenances were in disrepair; lighting in the filtration room was not operating properly; there was excessive vegetation around the wells and the treatment plant; there were non-essential items being stored at the treatment plant; an up-to-date emergency preparedness plan was not provided for review;

and, a complete procedures manual with written programs and logs was not provided for review.

Action: The Individual/Entity is required to: by October 15, 2020, submit a water audit for 2019, remove the excessive vegetation around the wells and the treatment plan, and remove the non-essential items stored at the treatment plan; by December 15, 2020, repair Well 1, repair the lighting in the filtration room, repair the pre-filtration chlorine feed and the pre-filtration and post-filtration lime feeds, repair the leaking valve at the treatment plant, cover the lime feed tank, label and color code the chemical injection points, flow test all of the fire hydrants, submit a complete procedures manual with written programs and logs, and submit an up-to-date emergency preparedness plan; and by March 15, 2021, repair or replace all hydrants and water meters documented as inadequate or inoperable, and complete the repairs to the storage tank. The Department has assessed a total civil penalty in the amount of twelve thousand dollars (\$12,000.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand dollars (**\$4,000.00**) and pay a stipulated penalty in the amount of eight thousand dollars (\$8,000.00) should any requirement of the Order not be met.

Update: The assessed civil penalty has been paid. The Individual/Entity has completed all of the requirements that were due by October 15, 2020.

45) <u>Order Type and Number:</u>	Consent Order 20-024-DW
<u>Order Date:</u>	October 6, 2020
<u>Individual/Entity:</u>	<b>William D. Huff, Individually and d.b.a. Huff's Shady Oak Village</b>
<u>Facility:</u>	Huff's Shady Oak Village
<u>Location:</u>	335 Owners Road Piedmont, SC 29670
<u>Mailing Address:</u>	630 Canterbury Road Piedmont, SC 29673
<u>County:</u>	Greenville
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	2360014
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.7; 61-58.8.B

Summary: William D. Huff, Individually and d.b.a. Huff's Shady Oak Village (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Greenville County, South Carolina. The Department conducted an inspection on August 5, 2020, and the PWS was rated unsatisfactory for failure to properly operate and maintain and failure to maintain an up-to-date copy of an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: there was dirt covering the well pad; there was a gap in the sanitary seal; the wellhouse door was not locked; there was a pipe on the wellhead piping that deposited water directly into the well; the current storage tank capacity was not the originally permitted amount of one hundred gallons; an up-to-date emergency preparedness plan was not provided for review; and, a complete procedures manual with written programs and logs was not provided for review.

Action: The Individual/Entity is required to: correct all of the deficiencies by December 15, 2020. The Department has assessed a total civil penalty in the amount of eight thousand dollars (\$8,000.00). The Individual/Entity shall pay a **stipulated penalty** in

the amount of eight thousand dollars (**\$8,000.00**) should any requirement of the Order not be met.

Update: The Individual/Entity has corrected all of the deficiencies and Department staff are working with him to complete the procedures manual.

46)	<u>Order Type and Number:</u>	Consent Order 20-025-DW
	<u>Order Date:</u>	October 15, 2020
	<u>Individual/Entity:</u>	<b>Aartun Industries, LLC</b>
	<u>Facility:</u>	Pumpkintown Mountain Opry
	<u>Location:</u>	3414 Highway 11 Pickens, SC 29671
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Pickens
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	3970907
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.7

Summary: Aartun Industries, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Pickens County, South Carolina. The Department conducted an inspection on August 6, 2020, and the PWS was rated unsatisfactory for failure to properly operate and maintain. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: there was no documentation indicating that the interior and exterior of the storage tank had been inspected within the past five years; there were winches supporting the pumps at the wells; a complete procedures manual with written programs and logs was not provided for review; the sanitary seals at the wells were deteriorated; the electrical wiring connected to the pumps was not properly fitted on the sanitary seals and was not in conduit; the electrical wiring at the storage tank was not in conduit; and, the electrical wiring at the light switch/outlet boxes at the wells and the storage tank was not covered.

Action: The Individual/Entity is required to: by November 15, 2020, have the interior and exterior of the storage tank and the winches supporting the pumps inspected, submit a copy of the inspection reports with recommendations to the Department for review, and submit a complete procedures manual with written programs and logs to the Department for review; and by January 15, 2021, replace the sanitary seals at the wells, properly fit the electrical wiring on the sanitary seals so that the openings are sealed, place all of the electrical wiring in conduit, properly cover all of the electrical wiring at the light switch/outlet boxes, complete all of the recommendations in the storage tank and winches inspection reports, and contact the Department to schedule an inspection to verify the completed work. The Department has assessed a total civil penalty in the amount of four thousand dollars (\$4,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of four thousand dollars (**\$4,000.00**) should any requirement of the Order not be met.

Update: The Individual/Entity has completed all of the requirements that were due by November 15, 2020.

47)	<u>Order Type and Number:</u>	Consent Order 20-026-DW
	<u>Order Date:</u>	October 23, 2020

<u>Individual/Entity:</u>	<b>Beal Lumber Company, Inc.</b>
<u>Facility:</u>	Beal Lumber
<u>Location:</u>	1041 Berley Boland Road Prosperity, SC 29127
<u>Mailing Address:</u>	P.O. Box 409 Little Mountain, SC 29075
<u>County:</u>	Newberry
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	3670907
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.17.K(1)

Summary: Beal Lumber Company, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Newberry County, South Carolina. On September 3, 2020, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS tested present for total coliform and E. coli, which resulted in a violation of the maximum contaminant level (MCL) for E. coli.

Action: The Individual/Entity is required to: by November 23, 2020, submit to the Department a corrective action plan to include proposed steps to address the MCL violation. The Department has assessed a total civil penalty in the amount of four thousand dollars (\$4,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of four thousand dollars (**\$4,000.00**), should any requirement of the Order not be met.

Update: The Individual/Entity has submitted a corrective action plan and completed the corrective actions.

48) <u>Order Type and Number:</u>	Consent Order 20-027-DW
<u>Order Date:</u>	October 29, 2020
<u>Individual/Entity:</u>	<b>Blythe Shoals Water Works, Inc.</b>
<u>Facility:</u>	Blythe Shoals Waterworks
<u>Location:</u>	5139 Geer Highway Cleveland, SC 29635
<u>Mailing Address:</u>	Same
<u>County:</u>	Greenville
<u>Previous Orders:</u>	None
<u>Permit/ID Number:</u>	2350008
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: Blythe Shoals Water Works, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Greenville County, South Carolina. On August 26, 2020, the PWS was inspected and rated unsatisfactory for failure to properly operate and maintain and failure to maintain an up-to-date copy of an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the insulation covering the well casing and the sanitary seal was deteriorated; the blow-off piping was broken; the sample tap was threaded and low to the ground; a procedures manual with written programs and logs was not available for review; an up-to-date emergency preparedness plan was not available for review; the well house walls were deteriorated; there was rubbish and debris inside the well house; there was vegetation growing inside and outside the well house

making accessibility difficult; the well house did not have adequate lighting; and, some of the electrical wiring was not in conduit.

Action: The Individual/Entity is required to: by December 15, 2020, correct all of the deficiencies. The Department has assessed a total civil penalty in the amount of eight thousand dollars (\$8,000.00). The Individual/Entity shall pay a **stipulated** penalty in the amount of eight thousand dollars (**\$8,000.00**) should any requirement of the Order not be met.

Update: The Individual/Entity has replaced the well house and is installing new insulation and piping.

### **Water Pollution Enforcement**

49) Order Type and Number: Consent Order 20-033-W  
Order Date: October 15, 2020  
Individual/Entity: **Town of Cheraw**  
Facility: Cheraw WWTF  
Location: Roddy Street  
Chesterfield County, SC  
Mailing Address: P.O. Box 219  
Cheraw, SC 29520  
County: Chesterfield  
Previous Orders: 17-009-W (\$2,240.00);  
18-0404-W (\$1,600.00);  
19-053-W (\$1,400.00)  
Permit/ID Number: SC0020249  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The Town of Cheraw (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Chesterfield County, South Carolina. On July 22, 2020, a Notice of Violation was issued as a result of total suspended solids (TSS) violations reported to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System Permit for TSS.

Action: The Individual/Entity is required to: submit notification of the completion for all corrective actions and demonstrate a six-month compliance confirmation monitoring period once corrective actions are complete. The Department has assessed a total civil penalty in the amount of three thousand, two hundred dollars (\$3,200.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand two hundred dollars (**\$3,200.00**).

Updates: The civil penalty has been paid in full and the Individual/Entity has submitted notification that all corrective actions will be completed by January 2022. The remaining corrective action to be taken includes replacement of a major sewer interceptor within the wastewater collection system.



50) Order Type and Number: Consent Order 20-034-W  
Order Date: October 20, 2020  
Individual/Entity: **Town of Elloree**  
Facility: Town of Elloree WWTP  
Location: 375 Warrior Drive  
Elloree, SC 29047  
Mailing Address: 2623 Cleveland Street  
Elloree, SC 29047  
County: Orangeburg  
Previous Orders: None  
Permit/ID Number: ND0067628  
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2019), Water Pollution Control Permits, 3 S.C. Code Ann Regs. 61-9.122.21(d) (2011), and State Land Application Permit ND0067628

Summary: Town of Elloree (Individual/Entity) owns and is responsible for the proper operation and maintenance of a water treatment plant (WTP) located in Orangeburg County, South Carolina. On May 6, 2020, a Notice of Violation was issued as a result of failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit an application for renewal of the State Land Application Permit at least one hundred eighty (180) days before the existing permit expires.

Action: The Individual/Entity is required to: continue operating the WTP in accordance with the most recent permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay to the Department a civil penalty of one thousand dollars (**\$1,000.00**).

Updates: The Individual/Entity paid the civil penalty in full and submitted an administratively complete application for renewal of its permit.

51) Order Type and Number: Consent Order 20-035-W  
Order Date: October 22, 2020  
Individual/Entity: **Nosoca Pines Ranch**  
Facility: Nosoca Pines Ranch WWTF  
Location: Two miles south of Liberty Hill,  
South Carolina  
Mailing Address: P.O. Box 200  
Liberty Hill, SC 29074  
County: Kershaw County  
Previous Orders: None  
Permit/ID Number: SC0033651  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.21(d) (2011).

Summary: Nosoca Pines Ranch, (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Kershaw County, South Carolina. On June 5, 2020, a Notice of Violation was issued for failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulations as follows: failed to submit a new NOI or permit application 180 days before the existing permit expires.

Action: The Individual/Entity is required to: continue operating the WWTF in accordance with the most recent permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)** by November 22, 2020.

Update: No updates.

52) Order Type and Number: Consent Order 20-36-W  
Order Date: October 22, 2020  
Individual/Entity: **City of Sumter**  
Facility: Pocotaligo River WWTF  
Location: Off Highway 521  
Sumter County, SC  
Mailing Address: 303 East Liberty Street  
Sumter, SC 29150  
County: Sumter  
Previous Orders: None  
Permit/ID Number: SC0027707  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) (2011).

Summary: The City of Sumter (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Sumter County, South Carolina. On July 30, 2020, a Notice of Violation was issued as a result of fecal coliform (FC) violations reported to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of its NPDES Permit for FC.

Action: The Individual/Entity is required to: submit notification of the completion for all corrective actions and demonstrate a six-month compliance confirmation monitoring period once corrective actions are complete. The Department has assessed a total civil penalty in the amount of four thousand, eight hundred dollars (\$4,800.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand eight hundred dollars **(\$4,800.00)**.

Update: The civil penalty has been paid in full. The Individual/Entity has reported that all corrective actions were completed as of October 9, 2020 and will begin its six-month compliance confirmation period in November 2020. The corrective actions implemented included revising its Pretreatment Program and developing a comprehensive plan to address Inflow and Infiltration impacting the system.

53) Order Type and Number: Consent Order 20-037-W  
Order Date: October 29, 2020  
Individual/Entity: **Woodruff Roebuck Water District**  
Facility: Woodruff Roebuck Water District  
WTP  
Location: 1101 Kitchens Road  
Roebuck, SC 29376  
Mailing Address: P.O. Box 182  
Woodruff, SC 29388  
County: Spartanburg  
Previous Orders: None  
Permit/ID Number: SCG646065  
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2019), Water Pollution Control Permits, 3 S.C. Code Ann Regs. 61-9.122.21(d) (2011), and NPDES Permit SCG646006

Summary: Woodruff Roebuck Water District (Individual/Entity) owns and is responsible for the proper operation and maintenance of a water treatment plant (WTP) located in Spartanburg County, South Carolina. On August 19, 2020, a Notice of Violation was issued for failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit an application for renewal of the NPDES Permit at least one hundred eighty (180) days before the existing permit expires.

Action: The Individual/Entity is required to: continue operating the WTP in accordance with the most recent NPDES Permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay to the Department a civil penalty of one thousand dollars (**\$1,000.00**).

Update: The civil penalty has been paid in full. The Individual/Entity submitted an administratively complete application for renewal of its NPDES permit.

54) Order Type and Number: Consent Order 20-038-W  
Order Date: October 29, 2020  
Individual/Entity: **Easley Combined Utilities**  
Facility: Don L Moore WTP  
Location: 324 Buckskin Road  
Easley, SC 29640  
Mailing Address: P.O. Box 619  
Easley, SC 29641  
County: Pickens  
Previous Orders: None  
Permit/ID Number: SCG646006  
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2019), Water Pollution Control Permits, 3 S.C. Code Ann Regs. 61-9.122.21(d) (2011), and NPDES Permit SCG646006

Summary: Easley Combined Utilities (Individual/Entity) owns and is responsible for the proper operation and maintenance of a water treatment plant (WTP) located in Pickens County, South Carolina. On August 19, 2020, a Notice of Violation was issued for failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit an application for renewal of the NPDES Permit at least one hundred eighty (180) days before the existing permit expires.

Action: The Individual/Entity is required to: continue operating the WTP in accordance with the most recent NPDES Permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay to the Department a civil penalty of one thousand dollars (**\$1,000.00**) by November 22, 2020.

Update: The civil penalty has been paid in full. The Individual/Entity submitted an administratively complete application for renewal of its NPDES permit.

55) Order Type and Number: Consent Order 20-039-W  
Order Date: October 29, 2020  
Individual/Entity: **South Forge L.P.**  
Facility: South Forge Apartments  
Location: 230 Highway 261 South  
Wedgefield, SC 29168  
Mailing Address: 1230 Folly Road  
Charleston, SC 29412  
County: Sumter  
Previous Orders: 19-045-W (\$3,400.00)  
Permit/ID Number: SC0033235  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.21(d) (2011).

Summary: South Forge L.P. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Sumter County, South Carolina. On June 5, 2020, a Notice of Violation was issued for failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit an application for renewal of its NPDES Permit at least one hundred eighty (180) days before the existing permit expires.

Action: The Individual/Entity is required to: continue operating the WWTF in accordance with the most recent permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of seven hundred dollars (\$700.00). The Individual/Entity shall pay a civil penalty in the amount of seven hundred dollars (**\$700.00**) in installment payments beginning December 1, 2020.,

Update: The Individual/Entity submitted an administratively complete application for renewal of its permit.

56) Order Type and Number: Consent Order 20-040-W  
Order Date: October 29, 2020  
Individual/Entity: **Rachel Holler**  
Facility: McAfee Mobile Home Park WWTF  
Location: 975 McAfee Court  
York County, SC  
Mailing Address: 1548 Fieldwood Drive  
Fort Mill, SC 29708  
County: York County  
Previous Orders: 18-018-W (\$5,000.00)  
Permit/ID Number: SC0027111  
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) (2011).

Summary: Rachel Holler (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located York County, South Carolina. On February 27, 2019, a Notice of Violation (NOV) was issued as a result of total residual chlorine (TRC) violations reported to the Department. On September 14, 2020, a NOV was also issued for failure to reapply for permit coverage one hundred eighty (180) days prior to the existing permit's expiration date. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the NPDES Permit for TRC; failed to properly operate and maintain the WWTF; and failed to submit an application for renewal of the NPDES Permit by the due date.

Action: The Individual/Entity is required to: continue operating the WWTF in accordance with the most recent NPDES Permit until a new permit becomes effective, submit notification of the completion for all corrective actions by November 30, 2020; and, demonstrate a six-month compliance confirmation monitoring period once corrective actions are complete. The Department has assessed a total civil penalty in the amount of four thousand nine hundred dollars (\$4,900.00). The Individual/Entity shall pay a **suspended penalty** in the amount of four thousand nine hundred dollars (**\$4,900.00**) should any requirement of the Order not be met.

Update: No updates.

## **BUREAU OF ENVIRONMENTAL HEALTH SERVICES**

### **Food Safety Enforcement**

57) Order Type and Number: Consent Order 2020-206-06-023  
Order Date: October 1, 2020  
Individual/Entity: **Lowes Foods #240 Deli**  
Facility: Lowes Foods #240 Deli  
Location: 215 Fresh Drive  
Myrtle Beach, SC 29579

Mailing Address: P. O. Box 24908  
Winston Salem, NC 27114  
County: Horry  
Previous Orders: None  
Permit Number: 26-206-12643  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Lowes Foods #240 Deli (Individual/Entity) operates a deli located in Horry County, South Carolina. The Department conducted inspections on August 23, 2018, April 24, 2019, and March 5, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to properly cool cooked time/temperature control for safety foods and failed to use effective methods to cool cooked time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of eight hundred dollars (\$800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars (**\$800.00**) by November 1, 2020.

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

58) Order Type and Number: Consent Order 2020-206-04-032  
Order Date: October 1, 2020  
Individual/Entity: **Cruizers XIII**  
Facility: Cruizers XIII  
Location: 701 North Cashua Drive  
Florence, SC 29501  
Mailing Address: Same  
County: Florence  
Previous Orders: 2019-206-04-060 (\$800.00)  
Permit Number: 21-206-02680  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Cruizers XIII (Individual/Entity) is a restaurant located in Florence County, South Carolina. The Department conducted inspections on September 24, 2018, August 5, 2019, and February 27, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods and failed to ensure that the handwashing sinks were accessible at all times.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

59) Order Type and Number: Consent Order 2020-206-06-020  
Order Date: October 8, 2020  
Individual/Entity: **Soho 544**  
Facility: Soho 544  
Location: 1300 Highway 544, Suite 109  
Conway, SC 29526  
Mailing Address: Same  
County: Horry  
Previous Orders: None  
Permit Number: 26-206-12830  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Soho 544 (Individual/Entity) is a restaurant located in Horry County, South Carolina. The Department conducted inspections on February 28, 2019, June 27, 2019, and February 26, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the proper sanitization concentration in a chemical sanitizer used in a manual or mechanical operation during contact times.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of eight hundred dollars (\$800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars (**\$800.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

60) Order Type and Number: Consent Order 2020-206-08-007  
Order Date: October 12, 2020  
Individual/Entity: **Castillos II**  
Facility: Castillos II  
Location: 1383 Sniders Highway  
Walterboro, SC 29488  
Mailing Address: 1660 Old Trolley Road  
Apartment #A19  
Summerville, SC 29485  
County: Colleton  
Previous Orders: None  
Permit Number: 15-206-00656  
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Castillos II (Individual/Entity) is a restaurant located in Colleton County, South Carolina. The Department conducted inspections on August 31, 2018, June 13, 2019, and March 11, 2020. The Individual/Entity has violated the South Carolina Retail

Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of eight hundred dollars (\$800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars (**\$800.00**) by November 12, 2020.

Update: The Department has entered into a payment plan with the Individual/Entity for the civil penalty.

61) <u>Order Type and Number:</u>	Consent Order 2020-206-04-021
<u>Order Date:</u>	October 15, 2020
<u>Individual/Entity:</u>	<b>KJ's Deli/Bakery #60</b>
<u>Facility:</u>	KJ's Deli/Bakery #60
<u>Location:</u>	900 East Ashby Road Quinby, SC 29506
<u>Mailing Address:</u>	P. O. Box 1629 Lake City, SC 29560
<u>County:</u>	Florence
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	21-206-02187
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: KJ's Deli/Bakery #60 (Individual/Entity) operates a deli/bakery located in Florence County, South Carolina. The Department conducted inspections on March 26, 2018, February 28, 2019, and January 14, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper holding temperatures of time/temperature control for safety foods and failed to ensure that refrigerated, ready-to-eat, time/temperature control for safety foods were discarded if the temperature and time combination exceeded seven (7) days or if the package was not properly date marked.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of eight hundred dollars (\$800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars (**\$800.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

62) <u>Order Type and Number:</u>	Consent Order 2020-206-04-028
<u>Order Date:</u>	October 22, 2020
<u>Individual/Entity:</u>	<b>Savmart</b>
<u>Facility:</u>	Savmart
<u>Location:</u>	2518 Highway 9 West



<u>Mailing Address:</u>	Dillon, SC 29536 P.O. Box 486 Little Rock, SC 29567
<u>County:</u>	Dillon
<u>Previous Orders:</u>	2019-206-04-018 (\$400.00)
<u>Permit Number:</u>	17-206-00575
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Savmart (Individual/Entity) is a retail market located in Dillon County, South Carolina. The Department conducted inspections on April 19, 2018, March 27, 2019, and February 4, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that each handwashing sink or group of two (2) adjacent handwashing sinks was provided with a supply of hand cleaning, liquid, powder, or bar soap.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of five hundred dollars (\$500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

63) <u>Order Type and Number:</u>	Consent Order 2020-206-04-029
<u>Order Date:</u>	October 22, 2020
<u>Individual/Entity:</u>	<b>Little Caesars #2</b>
<u>Facility:</u>	Little Caesars #2
<u>Location:</u>	313 Second Loop Road Florence, SC 29505
<u>Mailing Address:</u>	2300 Second Loop Road Florence, SC 29501
<u>County:</u>	Florence
<u>Previous Orders:</u>	2019-206-04-054 (\$800.00)
<u>Permit Number:</u>	21-206-02202
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Little Caesars #2 (Individual/Entity) is a restaurant located in Florence County, South Carolina. The Department conducted inspections on October 17, 2018, August 19, 2019, and January 28, 2020. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure written procedures were in place and made available to the Department when the facility uses time as a public health control and failed to comply with the Hazard Analysis and Critical Control Point (HACCP) plan and procedures that were submitted and approved as a basis for the modification or waiver; and maintain and provide to the Department, upon request, records that demonstrate the HACCP plan is being employed.

Action: The Individual/Entity is required to: operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The

Department has assessed a total civil penalty in the amount of one thousand dollars (\$1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars (**\$1,000.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

### **On Site Wastewater Enforcement**

64)	<u>Order Type and Number:</u>	Consent Order 20-83-OSWW
	<u>Order Date:</u>	October 2, 2020
	<u>Individual/Entity:</u>	<b>Andy Burns/BSI, LLC</b>
	<u>Facility:</u>	Andy Burns/BSI, LLC
	<u>Location:</u>	829 Cumberland Drive Greer, SC 29650
	<u>Mailing Address:</u>	Same as location
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	19-20-OSWW (\$1,000.00); 20-10-OSWW (\$3,000.00)
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56.2

Summary: Andy Burns and BSI, LLC (Individual/Entity) holds a Department issued Master Contractor license (License # 23-366-23002). Based on a review of the Approval to Operate Contractor Self-Inspection forms submitted to the Department by the Individual/Entity for Permit #2019100007 and Permit # 2020020020 as well as regional office records, it was determined that the Individual/Entity did not schedule a final inspection with the Department; nor did the Individual/Entity wait the required time period before covering the installed system and completing the Approval to Operate Contractor Self-Inspection forms. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: they did not arrange a time for the final inspection of an OSWW system that is being installed with a representative of the Department and did not wait the required thirty (30) minutes for the inspector before covering the system and granting final approval to the system.

Action: The Individual/Entity is required to cease and desist not arranging final inspections with the Department and will wait the required amount of time before covering the OSWW system and granting final approval for the OSWW system. The Department has assessed a total civil penalty in the amount of two thousand dollars (\$2,000.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand dollars (**\$2,000.00**) by October 15, 2021.

Update: The Individual/Entity has entered into a payment plan with the Department and has paid the first two installments.

65)	<u>Order Type and Number:</u>	Consent Order 20-107-OSWW
	<u>Order Date:</u>	October 13, 2020
	<u>Individual/Entity:</u>	<b>Mancell Chapman, Jr.</b>
	<u>Facility:</u>	Mancell Chapman, Jr.

<u>Location:</u>	106 Hiawatha Trail Pickens, SC 29671
<u>Mailing Address:</u>	255 Hickory Hollow Road Pickens, SC 29671
<u>County:</u>	Pickens
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Mancell Chapman, Jr. (Individual/Entity) installed a septic tank on property located in Pickens County, South Carolina. The Department conducted an investigation on July 21, 2020 and spoke with the property owner at the Site who stated that the septic tank had been installed by the Individual/Entity. Department personnel could find no record for a permit being issued for that Site. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: they have engaged in the business of constructing and repairing onsite sewage treatment systems without first applying for, receiving, and subsequently maintaining a valid license to conduct such activities, as required by the Department.

Action: The Individual/Entity is required to cease and desist engaging in the business of constructing and repairing onsite sewage treatment systems without first applying for, receiving, and subsequently maintaining a valid license to conduct such activities, as required by the Department. The Department has assessed a total civil penalty in the amount of five hundred dollars (\$500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars (**\$500.00**).

Update: The Individual/Entity has complied with all requirements of the Order and paid the civil penalty. This Order has been closed.

\* Unless otherwise specified, "Previous Orders" as listed in this report include orders issued by Environmental Affairs Programs within the last five (5) years.

(x) ACTION/DECISION  
( ) INFORMATION

Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Division of Healthcare Quality

**Re: Notice of Proposed Regulation Amending R.61-7, *Emergency Medical Services*.**

## I. Introduction

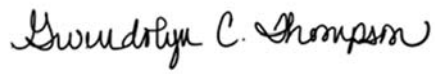
The Division of Healthcare Quality (“Healthcare Quality”) proposes the attached Notice of Proposed Regulation amending R.61-7, *Emergency Medical Services*, for publication in the December 25, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in S.C. Code Sections 44-61-10 *et seq.*, which requires the Department of Health and Environmental Control (“Department”) to establish and enforce basic standards for the licensure of ambulance services and emergency medical responder agencies, and certification of EMS personnel to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## II. Facts

1. The Department proposes amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification.
2. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received public comments from nine parties by the March 30, 2020, close of the public comment period. Attachment C presents a summary of these public comments received and Department responses.
3. Healthcare Quality held a stakeholder meeting on March 18, 2020.
4. Appropriate Department staff conducted an internal review of the proposed amendments on November 18, 2020.
5. Department staff provided members of the Emergency Medical Services Advisory Council a draft copy of NPR R. 61-7 for review and response on November 12, 2020. One member of the council submitted preliminary comments on November 19, 2020. Attachment D represents a summary of those comments. The Emergency Medical Services Advisory Council will conduct a comprehensive review of the NPR on December 10, 2020.

## III. Request for Approval

The Deputy of Healthcare Quality respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the December 25, 2020, *State Register*.



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Gwen Thompson  
Deputy Director  
Healthcare Quality

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the February 28, 2020, *State Register*
- C. Summary of Public Comments Received and Department Responses
- D. Summary of Advisory Council Comments Received and Department Responses

ATTACHMENT A

STATE REGISTER NOTICE OF PROPOSED REGULATION  
FOR R.61-7, *EMERGENCY MEDICAL SERVICES*

December 10, 2020

Document No. \_\_\_\_\_

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-61-10 et seq.

61-7. Emergency Medical Services.

**Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-7 was last amended in 2016.

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

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

Section-by-Section Discussion of Proposed Amendments:

Amended the Table of Contents to reflect the proposed Changes

Former **SECTION 100. SCOPE AND PURPOSE** - Removed section title for consistency with other Departmental regulations.

Former **Section 101. Scope of Act 1118 of 1974 as amended.** Removed title 101 and content for consistency with other Departmental regulations.

Former **SECTION 200. DEFINITIONS** - Removed section title for consistency with other Departmental regulations.

**SECTION 100 – DEFINITIONS, LICENSURE, AND CERTIFICATION** - Added section for consistency with other Departmental Regulations

**101. Definitions.** Added title for consistency with other Departmental Regulations and amended order and number of subsections for consistency in organization.

101.A. Abandonment added for clarity.

101.B. Advanced Emergency Medical Technician (AEMT) – recodified from former 200.N.3 and amended for clarity.

101.C Advanced Life Support (ALS) recodified from former 101.A and amended for consistency with statute.

Former 200.B Advanced Life Support Service term no longer used in the regulation .

101.D Air Ambulance. recodified prior 200.C.

101.E Ambulance. recodified prior 101.R and amended for clarity.

101.F Ambulance Remount added for clarity.

101.G Attendant. added for clarity.

101.H Attendant-driver. added for clarity.

Former 200.D Basic Life Support Service recodified to 101.I and amended for clarity.

101.J Commission on Accreditation of Allied Health Education Programs prior 200.E.

101.K Committee on Accreditation of Educational Program for the Emergency Medical Service Professionals prior 200.F.

101.L Condition Requiring an Emergency Response. prior 200.G.

101.M Continuing Education Program. prior 200.H.

Former 200.I Credentialing Information System (CIS) removed due to change in software system.

101.N Department. recodified from 101.II.

101.O Do Not Resuscitate Bracelet (“Bracelet”) added to provide clarity.

101.P Do Not Resuscitate Order for Emergency Services (“DNR Order”). added to provide clarity.

101.Q Driver former 101.J. amended for clarity.

101.R. Electronic Patient Care Reports (ePCR) prior 101.K amended to remove specifically named software.

101.S Emergency prior 200.L.

101.T. Emergency Medical Responder Agency added for clarity and consistency with statutes.

101.U Emergency Medical Technician (EMT) recodified from 101.N.1 and amended for clarity.

Former 101.O EMT Rapid Responder Agency was deleted and replaced with the statutory language in Section 101. T.

101.V Emergency Transport prior 200.M.

Former 101.N recodified to 101.U.

Former 101.O recodified to 101.T.

101.W Emergency Medical Service Agency added for clarity.

101.X Federal Aviation Administration prior 200.X.

101.Y Flight Nurse recodified from 200.Q and amended for clarity.

Former 200 R removed and recodified to 101.E.

Former 200.S. HIPAA - removed due not being used in the regulation.

101.Z Healthcare Provider added for clarity.

101.AA Incident added for clarity.

101.BB Intermediate Life Support prior 200.T amended for clarity.

101.CC Investigative Review Committee added for clarity.

Former 101.U Joint Policy Statement on Equipment for Ground Ambulance removed as it is not used in the regulation.

Former 101.V Medical Control removed and included in the body of the regulation .

101.DD Medical Control Physician added for clarity.

101.EE Moral Turpitude prior 200.W.

101.FF. National Emergency Medical Services Information System prior 200 X.

101.GG. National Registry of Emergency Medical Technicians prior 200.Y.

101.HH Nonemergency Transport prior 200.Z.

101.II Palliative Care added for clarity and to reflect statute.

101.JJ Patient prior 101.AA amended for clarity.

101.KK. Paramedic – recodified from former 101.N.4 and amended for clarity.

Former 200.CC definition removed as no longer used in the regulation.  
101.MM Physician Orders for Scope of Treatment (POST) Form added for clarity and to reflect statute.  
101.NN. Protocols added for clarity.  
101.OO Resuscitative Treatment added for clarity.  
101.PP Revocation prior 200.DD.  
101.QQ Special Purpose Ambulance added for clarity.  
101.RR Special Purpose EMT prior 200.EE.  
101.SS Specialty Care prior 200.FF.  
101.TT Star of Life prior 200.GG.  
101.UU Suspension prior 200.HH.  
Former II removed as no longer used in the regulation.  
101.VV Variance added for clarity.  
101.WW prior 200.JJ.  
101.XX prior 200.KK.

**102. Licensure** - added title and content and partly recodified from former section 401 for consistency with other Departmental regulations.

**103. Ems Agency Licensure Application** - added title for consistency with other Departmental regulations. Recodified content from former Section 401 and amended for consistency with other Departmental regulations.

**104. Medical Control Physician** – added title for reorganizational purposes. Recodified content from former section 402 and amended to provide clarity and record keeping.

**105. Driver. (I)** – added title for reorganizational purposes. Recodified content from former section 403 and 404.D. Amended content to align with South Carolina Statute and amended to provide clarity.

**106. Emergency Medical Responder Agency** – added for clarity and to reflect statute

**107. Ambulance Service Agency** – added for clarity and to reflect statute.

107.A Recodified content from former sections 404, 405, 406, 407, 408, and 409 and amended to provide clarity.

107 B Recodified content from former section 404,410, 411, and 501 and amended for clarity.

**108. Quick response Vehicle** added for clarity

**109. Tiered Response System** – added for clarity and to reflect statute.

108.A – recodified from 405.A and amended for clarity.

**110. Emergency Medical Technicians** – added title for recodification of prior Section 900

109.A Recodified content from former section 901 and amended for clarity.

109.B Recodified content from former sections 901 and 902 and amended for clarity.

**111. Initial EMT, AEMT, and Paramedic Certification** – added title due to recodification. Recodified content from former section 902 and amended for clarity and consistency with other Departmental regulations.

**112. Issuance and Terms of Certification** – added title for reorganizational purposes. Recodified content from former section 902 and added content for clarity and consistency with other department regulations and statutory requirements.

**113. EMT, AEMT, or Paramedic Certification Renewal** – added title for reorganizational purposes. Recodified content from former section 903 and amended for clarity and consistency with other Departmental regulations.

**114. Special Purpose EMT** - added title for reorganizational purposes. Recodified content from former section 904 and amended for clarity and consistency with other Departmental regulations.

**115. Reciprocity** - added title for reorganizational purposes. Recodified content from former section 905 and amended for clarity.

**116. Certification Examinations** recodified content from former section 906 and amended for clarity.

**117. Training Programs.** recodified content from former section 906 and amended for clarity.



**118. Continuing Education Program. (II)** - recodified content from former section 907 and amended for clarity.

**119. Continuing Education Units (CEUs)** - recodified content from former section 907 and amended for clarity.

**120. Pilot Programs** - recodified content from former Section 907 and amended for clarity.

**121. Certified EMT, AEMT, and Paramedic Instructors** - recodified content from former Section 907 and amended for clarity.

**122. Endorsement of Credentials** former Section 908

**123. Variance.** - added for clarity and consistency with other Departmental regulations

**SECTION 200 – ENFORCEMENT OF REGULATIONS** – added section title for consistency with other Departmental regulations.

**201. Inspections and Investigations** - added title for consistency with other Departmental regulations. Recodified content from former section 301 and 302 and amended for clarity and consistency with other Departmental regulations.

**202. Plan of Correction** - added title and content for consistency with other Departmental regulations.

**203. Consultations** - added title and content for consistency with other Departmental regulations.

Former SECTION 300. ENFORCING REGULATIONS – removed section title for consistency with other Departmental regulations.

**SECTION 300 – ENFORCEMENT ACTIONS** - added section title for consistency with other regulations.

Former **Section 301. General** – removed and recodified to proposed Section 201.

Former **Section 302. Inspections and Investigations** – removed and recodified to proposed Section 201

Former **Section 303. Enforcement Actions** - removed and recodified to proposed Sections 301 and 302.

**Section 301. Violation Classifications.** former Section 304 recodified.

Former 304.G – removed due to no longer being relevant.

Former 304.H – removed due to no longer being necessary in the regulation.

**Section 302. EMS Agency Fines and Monetary Penalties** – added title. Recodified content from 1501 and amended. Added content to create clarity and consistency with other Departmental regulations.

**Section 303. Enforcement Actions against Emergency Medical Technicians** – added title for organizational purposes. Recodified content from 1100 and amended for clarity.

**Section 304. Investigative Review Committee** – added for clarity and to reflect statute

Former SECTION 400. LICENSING PROCEDURES – removed title for organizational purposes.

**SECTION 400 – POLICIES AND PROCEDURES** – added title for organizational purposes and consistency with other Departmental regulations.

Former **Section 401. Application** – recodified to proposed section 103.

Former **Section 402. Medical Control Physician. (I)** – removed and recodified to proposed section 104.

Former **Section 403. Non-Credentialed Ambulance Operator or Driver. (II)** – removed and recodified to proposed section 105.

Former **Section 404. Criteria for License Category Basic Life Support (Ambulance). (II)** – removed and recodified to proposed Sections 106 and 107.

Former **Section 405. Criteria for License Category – Intermediate Life Support: (Ambulance). (II)** – removed and recodified to proposed Sections 106 and 107.

Former **Section 406. Criteria for License Category – Advanced Life Support: (Ambulance). (II)** – removed and recodified to proposed Sections 106 and 107.

Former **Section 407. Criteria for License Category – Special Purpose Ambulance Provider: (Ambulance). (II)** - removed and recodified to proposed Section 106 and 107.

Former **Section 408. Advanced Life Support Information. (II)** - removed and recodified to proposed Sections 106 and 107.

Former **Section 409. Advertising Level of Care. (II)** - removed and recodified to proposed Sections 106 and 107.

Former **Section 410. Criteria for License Category – EMT Rapid Responder. (II)** - removed and recodified to proposed Section 106.

Former **Section 411. Special Exemptions for Volunteer EMS Providers Squads.** - removed due not being relevant

400.A – added for clarity regarding policies and procedures

400.B – added for clarity regarding policies and procedures

400.C – added for clarity regarding policies and procedures

Former SECTION 500. PERMITS, AMBULANCE (I) – removed title for organizational purposes.

**SECTION 500 – PERSONNEL REQUIREMENTS** – added title for organizational purposes and consistency with other regulations.

Former **Section 501. Vehicle and Equipment** - removed title and content and recodified to proposed Section 1800

Former **Section 502. Temporary Assets.** - removed title and content and recodified to proposed Section 1800

500.A and B recodified prior Section 1000 amended for clarity

Former SECTION 600. STANDARDS FOR AMBULANCE PERMIT - removed title for organizational purposes.

**SECTION 600 – REPORTING** – added title for organizational purposes and consistency with other Departmental regulations.

Former **Section 601. Ambulance Design and Equipment** - removed and recodified to proposed section 1902 and 2100.

**601. Incident Reporting (I)** – added title and content to create consistency with other Departmental regulations and to clarify reporting requirements.

**602. Collisions** – and title and recodified content from former 501.F; amended for clarity.

**603. Animal Bites, Communicable Diseases, and Infections** – added title and content to create consistency with other Departmental regulations and clarity on reporting.

**604. Administration Changes** - added title and recodified content from former sections 401 and 402; amended for clarity and to create consistency with other Departmental regulations.

**605. Accounting of Controlled Substances (I)** – added title and content to create consistency with other Departmental regulations and to provide clarity on reporting.

**606. Agency Closure** – added title and content to create consistency with other Departmental regulations and to provide clarity on reporting.

Former SECTION 700. EQUIPMENT (II) removed title for organizational purposes.

**SECTION 700 – PATIENT CARE – added title for organizational purposes and to create consistency with other regulations.**

Former **Section 701. Minimum Ambulance Medical Equipment.** – removed title for organizational purposes and recodified content to proposed section 2100.

Former **Section 702. Intermediate and Advanced Equipment** – removed title for organizational purposes and recodified content to proposed section 2100.

Former **Section 703. EMT Rapid Responder Equipment**– removed title for organizational purposes and recodified content to proposed Section 2100

Former **Section 704. Special Purpose Ambulance Equipment**– removed title for organizational purposes and recodified content to proposed Section 2100

**701. General** – recodified from former section 1301 and amended for clarity.

**702. Data Manager**– recodified from former section 1302 and amended for clarity.

**703. Content**– recodified from former section 1303 and amended for clarity.

**704. Report Maintenance** – recodified from former section 1304 and amended for clarity.

**705. Do Not Resuscitate (DNR) Order** – recodified from former section 1400 and amended for clarity

**706. Physician Orders for Scope of Treatment (POST)** – added for clarity and reflect statute

Former SECTION 800. SANITATION STANDARDS FOR LICENSED PROVIDERS – removed title for organizational purposes and consistency with other Departmental regulations.

Former **Section 801. Exterior Surfaces** – removed and recodified content to proposed section 1701 for consistency with other Departmental regulations.

Former **Section 802. Interior Surfaces Patient Compartment-Ambulance** – removed and recodified content to proposed section 1702 for consistency with other Departmental regulations.

Former **Section 803. Linen** – removed and recodified content to proposed section 1703 for consistency with other Departmental regulations.

Former **Section 804. Oxygen Administration Apparatus. (II)** – removed and recodified content to proposed section 1704 for consistency with other Departmental regulations.

Former **Section 805. Resuscitation Equipment. (II)** – removed and recodified content to proposed section 1705 for consistency with other Departmental regulations.

Former **Section 806. Suction Unit** – removed and recodified content to proposed section 1706 for consistency with other Departmental regulations.

Former **Section 807. Splints** – removed and recodified content to proposed section 1707 for consistency with other Departmental regulations.

Former **Section 808. Stretchers and Spine Boards** – removed and recodified content to proposed section 1708 for consistency with other Departmental regulations.

Former **Section 809. Bandages and Dressings. (II)** – removed and recodified content to proposed section 1709 for consistency with other Departmental regulations.

Former **Section 810. Obstetrical (OB) Kits. (II)** – removed and recodified content to proposed section 1710 for consistency with other Departmental regulations.

Former **Section 811. Oropharyngeal Appliances. (II)** – removed and recodified content to proposed section 1711 for consistency with other Departmental regulations.

Former **Section 812. Communicable Diseases. (II)** – removed and recodified content to proposed section 1712 for consistency with other Departmental regulations.

Former **Section 813. Miscellaneous Equipment** – removed and recodified content to proposed section 1713 for consistency with other Departmental regulations.

Former **Section 814. Equipment and Materials Storage Areas** – removed and recodified content to proposed section 1714 for consistency with other Departmental regulations.

Former **Section 815. Personnel** – removed and recodified content to proposed section 1715 for consistency with other Departmental regulations.

Former SECTION 900. EMERGENCY MEDICAL TECHNICIANS – removed title for organizational purposes and consistency with other Departmental regulations.

Former **Section 901. General.** – removed and recodified content to proposed section 110 for consistency with other Departmental regulations.

Former **Section 902. Initial EMT, AEMT, and Paramedic Certification. (I)** – removed and recodified content to proposed section 112 for consistency with other Departmental regulations.

Former **Section 903. Recertification of EMT, AEMT, and Paramedic Certification.** – removed and recodified content to proposed section 113 for consistency with other Departmental regulations.

Former **Section 904. Special Purpose EMT.** – removed and recodified content to proposed section 114 for consistency with other Departmental regulations.

Former **Section 905. Reciprocity.** – removed and recodified content to proposed section 115 for consistency with other Departmental regulations.

Former **Section 906. Certification Examinations.** – removed and recodified content to proposed section 116 for consistency with other Departmental regulations.

Former **Section 907. Emergency Medical Technician Training Programs. (II)** – removed and recodified content to proposed Section 117 for consistency with other Departmental regulations.

Former **Section 908. Endorsement of Credentials.** – removed as no longer relevant

Former **Section 909. Certification Patches.** – removed as no longer relevant

Former SECTION 1000. PERSONNEL REQUIREMENTS (I) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 500.

Former SECTION 1100. REVOCATION OR SUSPENSION OF CERTIFICATES OF EMERGENCY MEDICAL TECHNICIANS (I) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 114.

Former SECTION 1200. AIR AMBULANCES– removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2200.

Former **Section 1201. Licensing. (I)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2201.

Former **Section 1202. Medical Supplies and Equipment. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2201 and 2202.

Former **Section 1203. Special Purpose Air Ambulances. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2203.

Former **Section 1204. Medication and Fluids for Advanced Life Support Air Ambulances. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2204.

Former **Section 1205. Rescue Exception. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2205.

Former SECTION 1300. PATIENT CARE REPORTS (III) ) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 700.

Former **Section 1301. Patient Care Reports.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 701.

Former **Section 1302. Data Manager.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 702.

Former **Section 1303. Content.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 703.

Former **Section 1304. Report Maintenance.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 704.

Former **SECTION 1400. DO NOT RESUSCITATE ORDER** – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 705

Former **1401. Purpose and Authority of Emergency Medical Services Do Not Resuscitate Order** - removed due to not being necessary in regulation.

Former **Section 1402. Definitions** - removed due to not being necessary in regulation.

Former **Section 1403. General Provisions** removed due to not being necessary in regulation.

Former **Section 1404. Revocation of EMS DNR Order** – recodified to proposed section 705 and amended for clarity.

Former **Section 1405. Patient’s Assessment and Intervention. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1406. Resuscitative Measures to be Withheld or Withdrawn. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1407. Procedures to Provide Palliative Treatment. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1408. DNR Information for the Patient, the Patient’s Family, the Health Care Provider and EMS Personnel. (II)** - removed due to not being necessary in regulation.

Former SECTION 1500. FINES AND MONETARY PENALTIES) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 300.

Former **Section 1501. Fines and Monetary Penalties** - recodified to proposed section 300.

Former SECTION 1600. SEVERABILITY) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2700.

Former SECTION 1700. GENERAL) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2800.

Propose Sections 900 -1600 Reserved

**1700 – SANITATION AND INFECTION CONTROL** – added title for organizational purposes and consistency with other Departmental regulations.

**1701. Exterior Surfaces** – recodified from former section 801 and amended for clarity.

**1702. Interior Surfaces Patient Compartment-Ambulance.** – recodified from former section 802 and amended for clarity.

**1703. Linen.** – recodified from former section 803 and amended for clarity.

**1704. Oxygen Administration Apparatus. (II)** – recodified from former section 804 and amended for clarity.

**1705. Resuscitation Equipment. (II)** – recodified from former section 805 and amended for clarity.

**1706. Suction Unit.** – recodified from former section 806 and amended for clarity.

**1707. Splints.** – recodified from former section 807 and amended for clarity.

**1708. Stretchers and Spine Boards.** – recodified from former section 808 and amended for clarity.

**1709. Bandages and Dressings. (II)** – recodified from former section 809 and amended for clarity.

**1710. Obstetrical (OB) Kits. (II)** – recodified from former section 810 and amended for clarity.

- 1711. Oropharyngeal Appliances. (II)** – recodified from former section 811 and amended for clarity.
- 1712. Communicable Diseases. (II)** – recodified from former section 812 and amended for clarity.
- 1713. Miscellaneous Equipment.** – recodified from former section 813 and amended for clarity.
- 1714. Equipment and Materials Storage Areas.** – recodified from former section 814 and amended for clarity.
- 1715. Personnel.** – recodified from former section 815 and amended for clarity.

**SECTION 1800 – AMBULANCE PERMITS** – added title for organizational purposes.

- 1801. General** – recodified from former section 501 and amended for clarity.
- 1802. Temporary Ambulance Permit** – recodified from former section 502 and amended for clarity.

**SECTION 1900 – STANDARDS FOR AMBULANCE PERMIT**– added title for organizational purposes.

- Section 1901. – Ambulance Design** – recodified from former section 601 and amended for clarity and current practice.
- Section 1902. Re-mounted Ambulance Design and Equipment** – added to create consistency with national standards.

**SECTION 2000 – [RESERVED]** – added to create consistency with other Departmental regulations.

**SECTION 2100 – AMBULANCE EQUIPMENT** – added title for organizational purposes and consistency with other regulations; recodified content from former section 700.

**SECTION 2200 – AIR AMBULANCE**

- 2201. Licensing. (I)** – recodified from former section 1201 and amended for clarity
- 2202. Medical Supplies and Equipment. (II)** – recodified from former section 1202 and amended for clarity
- 2203. Special Purpose Air Ambulances. (II)** – recodified from former section 1203 and amended for clarity
- 2204. Medication and Fluids for Advanced Life Support Air Ambulances. (II)** – recodified from former section 1204 and amended for clarity
- 2205. Rescue Exception. (II)** – recodified from former section 1205 and amended for clarity

**SECTION 2300 – [RESERVED]** - added to create consistency with other Departmental regulations.

**SECTION 2400 – [RESERVED]** - added to create consistency with other Departmental regulations.

**SECTION 2500 – [RESERVED]** added to create consistency with other Departmental regulations.

**SECTION 2600 – [RESERVED]** added to create consistency with other Departmental regulations.

**SECTION 2700 – SEVERABILITY** added to create consistency with other Departmental regulations.

**SECTION 2800 – GENERAL** added to create consistency with other Departmental regulations.

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

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HQRegs@dhec.sc.gov](mailto:HQRegs@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on January 25, 2021, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its February 11, 2021, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. Because of ongoing COVID-19 concerns, interested persons who do not wish to appear in person may participate in the public hearing by calling in through an assigned conference line. These participants may register in advance by visiting the DHEC Events webpage ([www.scdhec.gov/events](http://www.scdhec.gov/events)) and selecting the appropriate Board meeting date. A link to register will be provided on the accompanying meeting information page. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

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

### **Preliminary Fiscal Impact Statement**

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

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

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

DESCRIPTION OF REGULATION: 61-7, Emergency Medical Services

Purpose: The Department proposes amending R.61-7 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-61-10 et seq.

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

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for EMS agencies applying for licensure and certification of EMS personnel, incorporate provisions delineating requirements for protocols, ambulance permitting, Emergency Medical Responder agencies, training programs, ambulance design and equipment, and medical equipment. The proposed amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current patient reports, and other requirements for licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

**DETERMINATION OF COSTS AND BENEFITS:**

Implementation of these proposed 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 proposed amendments. There are no anticipated additional costs to the regulated community.

**UNCERTAINTIES OF ESTIMATES:**

None.

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

The proposed amendments to R.61-7 seek to support the Department's goals relating to the protection of public health through implementing updated requirements and current best practices for the emergency medical agencies and personnel. There are no anticipated effects on the environment.

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

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

**Statement of Rationale:**

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

The Department proposes amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-7. Emergency Medical Services.



Statutory Authority: ~~1976~~S.C. Code Sections 44-61-30 and 44-78-65

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~~Section 101.—Scope of Act 1118 of 1974 as Amended.~~

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~~Section 200.—DEFINITIONS.~~

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~~Section 300.—ENFORCING REGULATIONS.~~

~~Section 301.—General.~~

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~~Section 304.—Violation Classifications.~~

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~~Section 401.—Application.~~

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~~Section 406.—Criteria for License Category—Advance Life Support (Ambulance). (II)~~

~~Section 407.—Criteria for License Category—Special Purpose Ambulance Provider (Ambulance). (II)~~

~~Section 408.—Advanced Life Support Information. (II)~~

~~Section 409.—Advertising Level of Care. (II)~~

~~Section 410.—Criteria for License Category—EMT Rapid Responder. (II)~~

~~Section 411.—Special Exemptions for Volunteer EMS Providers.~~

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~~Section 500.—PERMITS, AMBULANCE.~~

~~Section 501.—Vehicle and Equipment.~~

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~~Section 600.—STANDARDS FOR AMBULANCE PERMIT.~~

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SECTION 100. SCOPE AND PURPOSE

**Section 101. Scope of Act 1118 of 1974 as amended.**

~~— A. Establishment of EMS program.~~

~~— B. General licensing, certification, inspection and training procedures.~~

~~— C. Establishment of an Emergency Medical Service Council and duties of the Council.~~

~~— D. Establishment of the Department of Health and Environmental Control authority for enforcement of these rules and regulations.~~

SECTION 200. DEFINITIONS

**SECTION 100 – DEFINITIONS, LICENSURE, AND CERTIFICATION**

**101. Definitions.**

A. Abandonment. For the purpose of 303.B.3.h, the unilateral termination of the provider-patient relationship at a time when continuing care is still needed. This includes the termination of care without the patient's consent or without assurance that an equal or higher level of care meeting the assessed needs of the patient's condition is present and available.

B. Advanced Emergency Medical Technician (AEMT). An advanced level prehospital emergency medical provider certified by the Department to deliver augmented prehospital critical care and provide rapid on-scene treatment, working in conjunction with EMTs and Paramedics.

~~AC. Advanced Life Support (ALS): An advanced level of prehospital, interhospital, and emergency service care which includes but is not limited to the treatment of life threatening medical emergencies through the use of techniques such as endotracheal intubation, administration of medications or intravenous fluids, cardiac monitoring, and electrical therapy by a qualified person pursuant to these regulations. An advanced level of prehospital, interhospital, and emergency service care, which includes Basic Life Support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the Department pursuant to regulation.~~

~~B. Advanced Life Support Service: A service provider that in addition to basic life support minimum standard, provides at least two (2) EMTs, one of which is a Paramedic and demonstrates the capability to provide IV therapy, advanced airway care, approved medication therapy, cardiac monitoring and defibrillation capability.~~

~~CD. Air ~~a~~Ambulance: Any aircraft that is intended to be used for and is maintained or operated for transportation of persons who are sick, injured, or otherwise incapacitated.~~

1. Fixed Wing: Any aircraft that uses fixed wings to allow it to take off and fly.

2. Rotorcraft: A helicopter or other aircraft that uses a rotary blade to allow vertical and horizontal flight without the use of wings.

E. Ambulance. A vehicle maintained or operated by an EMS Agency that has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated. Ambulances provide both emergent and non-emergent transport.

F. Ambulance Remount . An existing patient compartment module installed on a replacement chassis that is not the original chassis built by the original Final Stage Ambulance Manufacturer (FSAM).

G. Attendant. A trained and qualified individual responsible for the operation of an Ambulance and the care of the patients, regardless of whether the Attendant also serves as the Driver.

H. Attendant-driver. A person who is qualified as an Attendant and a Driver.

~~DI. Basic Life Support Service: A service provider that meets all criteria for basic life support minimum standard and is able to provide one EMT to one hundred percent (100%) of all calls and the ability to provide blind insertion airway devices (BIADs) and defibrillation capability. A basic level of Prehospital Care, which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the Department pursuant to regulation.~~

~~EJ. Commission on Accreditation of Allied Health Education Programs (CAAHEP): A programmatic accreditor in the health sciences field. In collaboration with its Committees on Accreditation, CAAHEP reviews and accredits educational programs in health science occupations.~~

~~FK. Committee on Accreditation of Educational Program for the Emergency Medical Service Professionals (CoAEMSP): The national accreditation organization specific to Paramedic education programs. Paramedic education programs must have CoAEMSP accreditation or a letter of review from CoAEMSP in order for their students to qualify for the National Registry examination.~~

~~GL.~~ Condition Requiring an Emergency Response: The sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, which a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

1. Serious illness or disability;
2. Impairment of a bodily function;
3. Dysfunction of the body; or
4. Prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

~~HM.~~ Continuing Education Program: An educational program designed to update the knowledge and skills of its participants by attending conventions, seminars, workshops, educational classes, labs, symposiums, and the like. Points toward recertification may be awarded for successful completion of approved activities. A Department-approved program offered by an EMS Agency for the sole purpose of providing Continuing Education for recertification of South Carolina certified EMTs, AEMT's, and Paramedics.

~~I.~~ Credentialing Information System (CIS): Database managed by EMS Performance Improvement Center (EMSPIC) which tracks EMS information and data such as certifications, licenses, permits, and inspections.

N. Department. The South Carolina Department of Health and Environmental Control.

O. Do Not Resuscitate Bracelet ("Bracelet"). A standardized identification bracelet that:

1. Meets the specifications established under S.C. Code Section 44-78-30(B) or that is approved by the Department under S.C. Code Section 44-78-30(B);

2. Bears the inscription "Do Not Resuscitate"; and

3. Signifies that the wearer is a patient who has obtained a Do Not Resuscitate Order that has not been revoked.

P. Do Not Resuscitate Order for Emergency Services ("DNR Order"). A document made pursuant to the Emergency Medical Services Do Not Resuscitate Order Act, S.C. Code Sections 44-78-10, et seq., to prevent Emergency Medical Services personnel from employing resuscitation measures or any other medical process that would only extend the patient's suffering with no viable medical reason to perform the procedure.

~~JQ.~~ Driver: In the EMS context, the vehicle operator of an ambulance. This person may be a certified EMT of any level or an uncertified individual who meets the minimum requirements as a driver by this regulation in Section 403. An individual who drives or otherwise operates an Ambulance.

~~KR.~~ Electronic Patient Care Reports (ePCR): Patient care reports authored and submitted electronically into PreMIS which is compliant with the National EMS Information System (NEMSI) the Department's EMS data system.

~~LS. Emergency:~~ For the purposes of this regulation, ~~an emergency is an~~ An acute situation in which a prudent layperson has identified a potential medical threat to life or limb such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment of bodily functions, or serious dysfunction of bodily organs.

T. Emergency Medical Responder Agency. A licensed agency providing medical care at the EMT level or above, as a nontransporting emergency medical responder. May also be referred to as EMT First Responder Agency or EMT Rapid Responder Agency.

U. Emergency Medical Technician (EMT). An individual possessing a valid EMT, advanced EMT (AEMT), or Paramedic certificate issued by the Department.

MV. Emergency Transport: Services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity, including severe pain, that the absence of medical attention could reasonably be expected to result in the following:

1. Placing the patient's health in serious jeopardy;
2. Causing serious impairment of bodily functions or serious dysfunction of bodily organ or part; or
3. A situation resulting from an accident, injury, acute illness, unconsciousness, or shock, for example, requiring oxygen or other emergency treatment, or requiring the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

~~— N. EMT: Emergency Medical Technician. When used in general terms for emergency medical personnel, an individual possessing a valid EMT, Advanced EMT (AEMT), or Paramedic certificate issued by the State of South Carolina pursuant to the provisions of this regulation and applicable governing statute.~~

~~— 1. Emergency Medical Technician (EMT): Formerly called an "EMT Basic," this nationally credentialed level of prehospital emergency medical providers is a person who is specially trained and certified to administer basic emergency services to victims of trauma or acute illness before and during transportation to a hospital or other healthcare facility.~~

~~— 2. Emergency Medical Technician — Intermediate (EMT-I): A nationally credentialed mid-level of prehospital emergency medical providers. The EMT-I is intended to deliver augmented prehospital critical care and provide rapid on-scene treatment, working in conjunction with EMTs and Paramedics. The EMT-I is authorized to provide more advanced medical treatment than the EMT. According to the NREMT, after March 31, 2017, EMT-I certifications are being replaced by the Advanced Emergency Medical Technician (AEMT) credential with a greater scope of practice than the EMT-I.~~

~~— 3. Advanced Emergency Medical Technician (AEMT): A nationally credentialed mid-level of prehospital emergency medical providers. The AEMT is intended to deliver augmented prehospital critical care and provide rapid on-scene treatment, working in conjunction with EMTs and Paramedics. The AEMT is authorized to provide more advanced medical treatment than the EMT.~~

~~— 4. Paramedic: The highest nationally credentialed level of prehospital emergency medical providers. The Paramedic is intended to provide leadership and to deliver prehospital emergency care and provide rapid on-scene treatment. The Paramedic is authorized to provide the highest level of prehospital care in accordance with standards set by the Department.~~



~~O. EMT Rapid Responder Agency: Formerly known as “EMT First Responder Service,” a licensed agency providing medical care at the EMT level or above as a nontransporting rapid responder.~~

W. Emergency Medical Service Agency (EMS Agency). An agency licensed by the Department to provide nontransport and/or transport emergency medical services in South Carolina, which includes public, private, volunteer, or other type of ambulance services and emergency medical responder agencies.

~~PX. FAA: Federal Aviation Administration (FAA).~~ The agency of the federal government that governs aircraft design, operations, and personnel requirements.

~~QY. Flight Nurse: A licensed registered nurse who is trained in all aspects of Emergency care who has been so designated by the Department.~~

~~R. Ground Ambulance: A vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated. Ambulances provide both emergent and non-emergent transport.~~

~~—1. Special purpose ambulance: An ambulance equipped and designated to transport by medical necessity only patients in need of specific specialized types of care and staffed by appropriate specialty care attendant(s). Examples may include special purpose ambulances such as neonatal units, and critical care ambulances.~~

~~S. HIPAA: Health Insurance Portability and Accountability Act of 1996.~~

Z. Healthcare Provider. For the purposes of Sections 705 and 706 a person licensed to practice medicine or osteopathy pursuant to Chapter 47, Title 40, of the S.C. Code of Laws.

AA. Incident. An unexpected adverse event, including any accidents, that could potentially cause harm, injury, or death to patients or EMS personnel.

~~FBB. Intermediate Life Support Service: A service provider that, in addition to bBasic lLife sSupport minimum standard, provides at least two (2) EMTs, one of which is an EMT-I, AEMT or Paramedic and demonstrates the capability to provide IV therapy, blind insertion airway devices (BIADs), and defibrillation capability.~~

CC. Investigative Review Committee. A professional peer review committee appointed and convened by the Department pursuant to Section 304 of this regulation.

~~U. Joint Policy Statement on Equipment for Ground Ambulances (JPS): National document drafted and published on January 1, 2014, by the American Academy of Pediatrics, American College of Emergency Physicians, American College of Surgeons Committee on Trauma, Emergency Medical Services for Children, Emergency Nurses Association, National Association of EMS Physicians, and the National Association of State EMS Officials to serve as a referenced standard for equipment needs of emergency ground ambulance services in the United States.~~

~~V. Medical Control: Medical Control is usually provided by a licensed agency’s physician who is responsible for the care of the patient by the provider’s medical attendants. Actual medical control may be direct by two-way voice communications (on-line) or indirect by standing orders or protocols (off-line) control.~~

~~— 1. Off-Line Medical Control Physician: A provider's Medical Control Physician who actually takes responsibility for treatment of patients in the prehospital setting by standing orders, protocols, or patient care guidelines.~~

~~— 2. On-Line Medical Control Physician: The physician who directly communicates with EMTs regarding appropriate patient care procedures en route or on scene. An on-line Medical Control Physician must be available for all EMTs performing procedures designated by the Department.~~

DD. Medical Control Physician. A physician, currently licensed to practice medicine by the South Carolina Board of Medical Examiners, retained by an EMS Agency to provide medical control, who participates in the review or evaluation of the services provided, and who maintains quality control of the patient care provided by the EMS Agency's service.

WEE. Moral Turpitude: Behavior that is not in conformity with and is considered deviant by societal standards.

~~XFF. National Emergency Medical Services Information System (NEMSIS): NEMSIS is the~~The national repository of EMS data that is collected from across the United States. The data is used to define EMS and prehospital care, improve patient care, determine the national standard of care, and help design EMS curriculum.

~~YGG. National Registry of Emergency Medical Technicians (NREMT): A national certification agency which that establishes uniform standards for training and examination of personnel active in the delivery of prehospital Emergency care. Individuals possessing a valid NREMT certification have successfully demonstrated competencies in their level of prehospital provider.~~

ZHH. Nonemergency Transport: Services and transportation provided to a patient whose condition is considered stable, including prearranged transports scheduled at the convenience of the service, the patient, or medical facility. A stable patient is one whose condition by caregiver consensus can reasonably be expected to remain the same throughout the transport and for whom none of the criteria for Emergency Transport has been met. Prearranged transports scheduled at the convenience of the service, the patient, or medical facility will be classified as a nonemergency transport.

II. Palliative Care. The degree of treatment that must be provided to a patient in the routine delivery of emergency medical services, which assures the comfort and alleviation of pain and suffering to all extents possible, regardless of whether the patient has executed a document as provided for in Chapter 78, Title 44 of the S.C. Code of Laws.

AAJJ. Patient: A patient is defined as any person who meets any of the following criteria: An individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

~~— 1. Receives basic or advanced medical or trauma treatment;~~

~~— 2. Is physically examined;~~

~~— 3. Has visible signs of injury or illness or has a medical complaint;~~

~~— 4. Requires EMS specific assistance to change locations and/or position;~~

~~— 5. Identified by any party as a possible patient because of some known, or reasonably suspected illness or injury;~~

~~— 6. Has a personal medical device evaluated or manipulated by EMS; or~~

~~— 7. Requests EMS assistance with the administration of personal medications or treatments.~~

KK. Paramedic. The highest level of EMT certified by the Department

~~BBLL. Prehospital Care: Assessment, stabilization, and care of a patient, including, but not limited to the transportation to an appropriate receiving facility.~~

~~CC. Prehospital Medical Information System (PreMIS): A state mandated internet based EMS information system that collects data on each EMS call report made within South Carolina.~~

MM. Physician Orders for Scope of Treatment (POST) Form. A designated document designed for use as part of advance care planning, the use of which must be limited to situations where the patient has been diagnosed with a serious illness or, based upon medical diagnosis, may be expected to lose capacity within twelve (12) months and consists of a set of medical orders signed by a patient's physician addressing key medical decisions consistent with patient goals of care concerning treatment at the end of life that is portable and valid across health care settings.

NN. Protocols. Written orders signed, dated, and issued by a Medical Control Physician that allows EMTs, AEMTs, and Paramedics to administer particular medications and perform treatment modalities in specific situations without on-line medical direction. May also be referred to as Standing Orders.

OO. Resuscitative Treatment. Artificial stimulation of the cardiopulmonary systems of the human body, through either electrical, mechanical, or manual means including, but not limited to, cardiopulmonary resuscitation.

~~DDPP. Revocation: The Department has permanently voided a license, permit, or certificate and the holder no longer may perform the function associated with the license, permit, or certificate. The Department will not reissue the license, permit, or certificate for a period of two (2) years for a license or permit and four (4) years for a certificate. At the end of this period, the holder may petition the Department for reinstatement.~~

QQ. Special Purpose Ambulance. An Ambulance equipped, staffed, and permitted by the Department to transport patients in need of specific specialized types of care, such as neonatal units and critical care Ambulances.

~~EERR. Special Purpose EMT: A state credentialed prehospital emergency medical provider. This person is a South Carolina licensed registered nurse (RN) or a Nurse Licensure Compact (NLC) State Registered Nurse who works in a critical care hospital setting such as neonatology, pediatrics, or cardiac care, and is a EMT certified by the Department. These Special Purpose EMTs to provide a continuance of critical care during transport while aboard special purpose ambulances permitted by the State and equipped for their specialty area.~~

~~FFSS. Specialty Care: Advanced care skills provided by an appropriately credentialed Attendant in their specific specialty area. These may include, but are not limited to, Paramedics, Special Purpose EMTs in their area of specialty, RNs, and respiratory therapists.~~

~~GGTT~~. “Star of Life”~~;~~. A six (6) barred blue cross outlined with a white border of which all angles are sixty (60) degrees and upon which is superimposed the staff of Aesculapius in white. This is a registered trademark of the ~~U.S.~~United States Department of Transportation.

~~HHUU~~. Suspension~~;~~. The Department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the Department.

~~H. The Department: The administrative agency known as the South Carolina Department of Health and Environmental Control.~~

VV. Variance. An alternative method that ensures the equivalent level of compliance with the standards in this regulation.

~~JJWW~~. Vocational School~~;~~. Also called a trade school, is a higher-level learning institution that specializes in providing students with the vocational education and technical skills they need in order to perform the tasks of a particular job.

~~KKXX~~. Volunteer EMS Provider~~;~~ Agency. A not-for-profit EMS ~~provider which~~Agency that serves its local community with emergency medical service coverage at any level and is staffed by at least ninety percent (90%) non-paid staff. For the purpose of this regulation, token stipends received by volunteer EMS ~~providers~~ Agencies are not considered paid remuneration or a primary wage.

## **102. Licensure.**

A. No person, partnership, corporation, private or public organization, political subdivision, or other governmental agency shall operate, conduct, maintain, advertise, represent itself, market, or otherwise engage in the business or service of providing emergency medical response or Ambulance service or both without first obtaining a license issued by the Department. When it has been determined by the Department that services are being provided and the owner, agent, or otherwise has not been issued a License from the Department, the owner, agent, or otherwise shall cease operation immediately and ensure the safety, health, and well-being of Patients. Current and/or previous violations of the South Carolina Code and/or Department regulations may jeopardize the issuance of a License or the licensing of any party(ies) to provide emergency medical response or Ambulance service or both that is owned/operated by the applicable party(ies). An EMS Agency shall not operate or advertise that it provides a level of life support above the level for which it is licensed. (I)

B. An EMS Agency that applies to the Department for any additional initial or amended EMS Agency licenses shall be in substantial compliance with this regulation to obtain any additional initial or amended EMS Agency licenses.

### C. Issuance and Terms of License.

1. The EMS Agency shall ensure the License issued by the Department is posted in a conspicuous place in a public area.

2. The issuance of a License by the Department to the EMS Agency does not guarantee adequacy of individual care, services, personal safety, or the well-being of any patient.

3. The EMS Agency’s license is not assignable or transferable and is subject to Revocation at any time by the Department for the EMS Agency’s failure to comply with the laws and regulations of this state.

4. A License shall be effective for a specified EMS Agency, at a specific location, and for a period of two (2) years following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the EMS Agency of a change in that status.

D. EMS Agency Name. Proposed and existing EMS Agencies shall not have the same or similar name of any other EMS Agency licensed in South Carolina.

E. Amended License. An EMS Agency shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

1. Change of level of services provided;
2. Change of EMS Agency headquarters location from one geographic site to another; or
3. Changes in EMS Agency name or address (as notified by the post office).

F. Change of Licensee. An EMS Agency shall request issuance of a new license by application to the Department prior to any of the following circumstances:

1. A change in the controlling interest even if, in the case of a corporation or partnership, the legal entity retains the identity and name; or

2. A change in the legal entity, for example, sole proprietorship to or from a corporation or partnership to or from a corporation, even if the controlling interest does not change.

### **103. EMS Agency License Application.**

A. Application. Applicants for initial licensure as an EMS Agency shall submit a complete and accurate application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The EMS Agency shall ensure the application is signed by the owner(s) if an individual or partnership; by two (2) officers if a corporation; or by the head of the governmental department having jurisdiction if a governmental unit. Corporations or limited partnerships, limited liability companies, or any other organized business entity shall be registered with the South Carolina Secretary of State's Office if required to do so by state law.

B. The EMS Agency shall include the following with the initial licensure application shall contain the following:

1. The name and address of the owner of the EMS Agency or proposed EMS Agency;
2. The name under which the EMS Agency applicant is doing business or proposes to do business;
3. A copy of the business license, if applicable, of the EMS Agency or proposed EMS Agency for the location of the service;
4. The number of Ambulances and a description of each Ambulance, and/or emergency medical responder service vehicle including the make, Vehicle Identification Number (VIN), aircraft tail number, model, year of manufacture, and other distinguishing characteristics to be used to designate applicants vehicles;

5. The location and description of the place or places from which the EMS Agency is intending to operate;

6. Personnel roster representing all employees, members, volunteers, and affiliates associated with the service including, but not limited to, EMTs, AEMTs, Paramedics, Drivers, pilots, registered nurses, certification numbers, and expiration dates of their South Carolina and NREMT credentials, if applicable;

7. EMS Agency type(s) and the levels of capability for each type pursuant to Sections 106 and 107 to be provided at each location;

8. Name, email address, and phone number of the following, if applicable;

a. EMS Director;

b. EMS Assistant Director;

c. Training Officer;

d. Data Manager;

e. Infection Control Officer;

f. Pediatric Emergency Care Coordinator, if applicable; and

g. Medical Control Physician;

9. A copy of current Protocols and an authorized medication list both signed and dated by the Medical Control Physician;

10. Records for each Driver, pursuant to Section 105;

11. Liability insurance information, to include name of insurance company, agent, phone number, and type of coverage. A copy of insurance policies shall be furnished to the Department upon request. The minimum limits of coverage shall be six hundred thousand dollars (\$600,000.00) liability and three hundred thousand dollars (\$300,000.00) malpractice per occurrence. Applicants that claim "self-insured" status shall provide documentation showing the specific coverages as outlined above;

12. A copy of the EMS Non-Dispensing Drug Outlet Permit from the South Carolina Board of Pharmacy, when applicable;

13. A copy of the EMS Agency's current registration certificate from the Department's Bureau of Drug Control and registration certificate from the United States Drug Enforcement Administration, when applicable;

14. A copy of the EMS Agency's Clinical Laboratory Improvement Amendments (CLIA) Certificate of Waiver from the federal Centers for Medicare and Medicaid Services (CMS), when applicable;

15. A copy of the EMS Agency's Waste Generator Permit Infectious Waste Generator Registration issued by the Department, or if an out of state EMS Agency, the respective home state equivalent; and

16. Additional information if requested by the Department, such as affirmative evidence of the applicant's ability to comply with this regulation.

#### **104. Medical Control Physician. (I)**

A. The EMS Agency shall retain a Medical Control Physician to:

1. Provide oversight to ensure that all EMTs, AEMTs, and Paramedics for which he or she provides direction are properly educated and certified pursuant to this regulation;

2. Provide oversight to ensure that an effective method of quality assurance and improvement is integrated into the emergency medical provider services for which he or she provides medical control;

3. Provide on-line medical control by directly communicating with EMTs, AEMTs, and Paramedics regarding appropriate patient care procedures en route or on-scene continuously by two-way voice communication; and

4. Provide off-line medical control by Protocols.

B. The EMS Agency shall ensure that Protocols and authorized medication lists updated by the Medical Control Physician are submitted by the EMS Agency to the Department within five (5) business days of the updates in a manner prescribed by the Department.

C. The EMS Agency's primary Medical Control Physician may designate medical oversight authority to Assistant or Associate Medical Control Physicians. The EMS Agency's Medical Control Physician may withdraw at his or her discretion the authorization for personnel to perform any or all patient care procedure(s) or responsibilities. The EMS Agency's Medical Control Physician may respond to scene calls to render care, function as medical providers, provide medical direction, and/or exercise their medical oversight authority.

#### **105. Driver. (II)**

A. The EMS Agency shall:

1. Ensure each Ambulance Driver is at least eighteen (18) years of age;

2. Ensure each Ambulance Driver has in their possession at the time of vehicle operation a valid driver's license issued by the South Carolina Department of Motor Vehicles;

3. Conduct a state criminal background check prior to date of hire on each Ambulance Driver from the state where the Driver currently resides;

4. Secure and review a certified copy of each Ambulance Driver's three (3)-year driving record issued by the South Carolina Department of Motor Vehicles prior to hire;

5. Not employ an Ambulance Driver who is registered or required to be registered as a sex offender with the South Carolina Law Enforcement Division (SLED) or any national registry of sex offenders;

6. Ensure each Ambulance Driver completes a nationally accredited driving safety course specific to Ambulances, which includes practical skill evolutions, within thirty (30) calendar days of hire; and

7. Ensure each Ambulance Driver displays a picture identification card visible to the public at all times.

B. The EMS Agency shall maintain documentation to ensure the EMS Agency meets the requirements pursuant to Section 105. A and submits to the Department upon request.

C. The EMS Agency shall ensure all Patients are transported with Ambulance personnel who are certified to provide the level of care needed by the Patient in addition to the Driver.

D. The EMS Agency shall ensure that the Ambulance Drivers and Attendant-Drivers only utilize emergency lights and sirens when responding to a Patient with a Condition Requiring Emergency Response or is otherwise conducting an Emergency Transport.

### **106. Emergency Medical Responder Agency. (II)**

A. The Emergency Medical Responder Agency shall ensure the Emergency Medical Responder vehicles are not used for the transportation of Patients.

B. Personnel. The Emergency Medical Responder Agency shall ensure and document in its employee records that each of its EMTs, AEMTs, and Paramedics hold a current certification from the Department. The Emergency Medical Responder Agency shall:

1. Have at least five (5) EMTs, AEMTs, and/or Paramedics assigned to duty at all times with certification levels that coincide with the Emergency Medical Responder Agency's level of licensure.

2. Meet the staffing required for each response level as follows:(I)

a. BLS, at least one (1) EMT;

b. ILS, at least one (1) AEMT or Paramedic; and

c. ALS, at least one (1) Paramedic.

3. En route Response. The Emergency Medical Responder Agency shall ensure that vehicles are staffed in accordance with Section 106.B.2 and en route to all emergent calls within two (2) minutes and en route within ten (10) minutes for non-emergency calls. Volunteer Emergency Medical Responder Agencies without onsite EMTs, AEMTs, or Paramedic shall be en route with at least one (1) EMT to all emergent calls within ten (10) minutes.

4. Documentation. The Emergency Medical Responder Agency shall maintain the following documentation available as requested by the Department:

a. Staffing patterns to ensure compliance with en route times;

b. Approved patient care report forms, employee and member rosters, time sheets, call rosters, training records; and

c. Dispatch logs that show at least the time the call was received, the type of call, and en route times.

### **107. Ambulance Service Agency. (II)**



A. Personnel. The EMS Agency shall ensure all Ambulance Attendants have a valid EMT, AEMT, or Paramedic certificate. The EMS Agency shall maintain documentation that each of its EMTs, AEMTs, and Paramedics holds a current certification from the Department. The Ambulance Service Agency shall:

1. Have at least five (5) EMTs, AEMTs, and/or Paramedics assigned to duty at all times with certification levels that coincide with the EMS Agency's level of licensure.

2. Have equipment and staff on all Ambulances to ensure the level of trained and qualified personnel coincide with the requirements for its vehicle classification:(I)

a. BLS level service shall provide care and transport with at least one (1) EMT and one (1) Driver.

b. ILS level service shall provide care and transport with at least two (2) EMTs, one (1) of which shall be an AEMT or Paramedic.

c. ALS level service shall provide care and transport with at least one (1) EMT and one (1) Paramedic. The EMS Agency shall ensure Ambulances transporting patients requiring ALS level service are fully equipped as an ALS unit with a Paramedic, physician, or RN in the patient compartment at all times.

d. Special Purpose Ambulance service shall provide interfacility transports only and with at least one (1) Special Purpose EMT. The EMS Agency with a Special Purpose Ambulance shall have written operational procedures and medical Protocols directing the daily operations of the Special Purpose EMT and Special Purpose ambulance approved and signed by the EMS Agency's Medical Control Physician.

B. En route Response.

1. The Ambulance Service Agency shall have staffing patterns and, if necessary, mutual aid agreements to ensure that an Ambulance is en route with at least one (1) EMT and one (1) Driver onboard to all emergent responses within two (2) minutes, or the next closest staffed Ambulance must be dispatched, excluding prearranged transports.

2. The Volunteer Services Ambulance Service Agency without onsite personnel shall have staffing patterns and, if necessary, mutual aid agreements to ensure that an Ambulance is en route with at least one (1) EMT and one (1) Driver onboard to all emergent calls within ten (10) minutes or have the closest staffed Ambulance dispatched.

3. If the Ambulance Service Agency only has one (1) EMT available to staff the Ambulance, the Ambulance Service Agency shall ensure that the EMT shall be the patient care provider and supervise the care being provided.

4. The Ambulance Service Agency shall ensure that a unit staffed to the above levels is en route within ten (10) minutes to all unscheduled, non-emergency responses such as calls received in the Public Safety Answering Points (PSAP) that do not require an emergent response, or the Ambulance Service Agency shall ensure that the next closest staffed ambulance is dispatched. Unscheduled, non-emergent responses, such as calls received in the PSAP that do not require an emergent response, shall have a unit Ambulance staffed pursuant to Section 107.B. en route within ten (10) minutes or the next closest staffed Ambulance must be dispatched.

5. The EMS Agency shall maintain documentation that demonstrates compliance with all en route requirements and make it available to the Department upon request.

### **108. Quick Response Vehicle (QRV).**

The EMS Agency may utilize a non-permitted Quick Response Vehicle (QRV) as a first response vehicle. The EMS Agency shall ensure each QRV is staffed with a minimum of one (1) EMT that is credentialed at a level as determined by the Medical Control Physician, BLS, ILS, or ALS, and equipped as authorized by the Medical Control Physician and that coincides with the credential level as determined by the Medical Control Physician.

### **109. Tiered Response System. (II)**

A. An EMS Agency utilizing a tiered response system shall have a process in place to specifically and reliably identify the acuity of the incoming EMS request in order to properly triage the response and dispatch the appropriate level unit(s). The provider may triage calls with assets such as Emergency Medical Dispatching (EMD) or other means that identifies whether the request is appropriate for less than the highest level of permitted Ambulance.

B. The Ambulance Service may operate an ALS level-equipped Ambulance with BLS level-personnel provided an ALS credentialed responder intercepts the Ambulance.

C. If an ALS responder intercepts a BLS ambulance, the EMS Agency shall ensure all equipment and personnel needed to raise the ambulance to the ALS level is transferred and onboard the Ambulance prior to commencing patient transport.

### **110. Emergency Medical Technicians.**

A. No person may hold himself or herself out as an EMT, AEMT, or Paramedic, or provide patient care that is within the scope of an EMT, AEMT, or Paramedic as defined in South Carolina Code Section 44-61-20 and this regulation without obtaining a proper certification from the Department. When it has been determined by the Department that an individual is engaged as an EMT, AEMT, or Paramedic, and the individual has not been issued a Certificate from the Department, the individual shall cease engaging as an EMT, AEMT, or Paramedic immediately. Current and/or previous violation(s) of the South Carolina Code of Laws or Department regulations may jeopardize the issuance of an EMT, AEMT, and Paramedic certificate. (I)

B. No person shall provide patient care within the scope of an Emergency Medical Technician (EMT, AEMT, or Paramedic) without a current South Carolina certification from the Department. The EMT shall: (I)

1. Complete a Department-approved training program;
2. Engage only in those practices for which he or she has been trained, within the scope of the Department-issued certification, and as authorized by the EMS Agency's Medical Control Physician; and
3. Perform procedures only under the direction and supervision of a Medical Control Physician.

### **111. Initial EMT, AEMT, and Paramedic Certification.**

Applicants for an initial EMT, AEMT, or Paramedic Certificate shall submit to the Department a completed application on a form prescribed, prepared, and furnished by the Department prior to issuance of an initial Certificate. The applicant shall submit, along with the application, the following:

A. Documentation that he or she has successfully passed the National Registry of Emergency Medical Technicians (NREMT) examination for the level of certification desired and possesses a current NREMT credential. In lieu of the NREMT credential, the Special Purpose EMT applicant shall submit documentation demonstrating that he or she is a licensed registered nurse who works in a critical care hospital setting; and

B. A criminal history background check. A person seeking EMT, AEMT, or Paramedic certification shall undergo a state criminal history background check supported by fingerprints by the South Carolina Law Enforcement Division (SLED) and a national criminal history background check supported by fingerprints by the Federal Bureau of Investigation (FBI). (I)

1. The results of the criminal history background check shall be reported to the Department. SLED is authorized to retain the fingerprints for certification purposes and for notification to the Department regarding criminal charges.

2. The cost of the state criminal history background check shall not exceed eight dollars (\$8.00) and shall be paid by the EMT or the EMS Agency upon application for the state background check. The cost of the national criminal history background check is established by the FBI and shall be paid by the EMT or the EMS agency upon application for the national check.

C. The Department may require additional information including affirmative evidence of the applicant's ability to comply with this regulation.

## **112. Issuance and Terms of Certification.**

A. The EMT, AEMT, and Paramedic Certificate is issued pursuant to South Carolina Code Sections 44-61-80 et seq. and this regulation. The issuance of a certificate does not guarantee adequacy of individual care, treatment, personal safety, or well-being of any Patient.

B. The EMT, AEMT, and Paramedic Certificate is not assignable or transferable and shall be subject to denial, Suspension, or Revocation by the Department for failure to comply with the South Carolina Code of Laws and this regulation.

C. The EMT, AEMT, and Paramedic Certificate shall be valid for a period not exceeding four (4) years from the date of issuance. A Certification shall remain in effect until the Department notifies the EMT, AEMT, or Paramedic of a change in that status.

D. All certified EMTs, AEMTs, and Paramedics shall display the Department issued identification card at all times while on duty and providing patient care. In the event the Department-issued identification card is lost, the EMT, AEMT, and Paramedic may display an electronic or printed copy of his or her credential until a duplicate identification card is secured. The EMT, AEMT, and Paramedic shall notify the Department within three (3) business days, not including weekends and holidays, of the lost identification card and not be without the Department issued identification card for more ten (10) calendar days.

E. The EMT, AEMT, or Paramedic shall maintain current information in the Department's credentialing information system.

## **113. EMT, AEMT, or Paramedic Certification Renewal.**

To renew his or her EMT, AEMT, or Paramedic Certification, the EMT, AEMT, or Paramedic shall submit a complete application with the Department, on a form prescribed, prepared, and furnished by the Department, at least thirty (30) calendar days prior to the expiration date of his or her EMT, AEMT, or Paramedic certificate and shall not have pending enforcement actions by the Department. If the Certificate renewal is delayed due to enforcement actions, the Certificate renewal shall be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable. The EMT, AEMT, or Paramedic shall submit, along with the renewal application, the following:

A. Documentation of current NREMT credentials for the appropriate level of certification, EMT, AEMT, or Paramedic, or documentation that the EMT, AEMT, or Paramedic was certified by the Department prior to October 1, 2006. In lieu of the NREMT credential, the Special Purpose EMT shall submit documentation demonstrating he or she is a licensed registered nurse who works in a critical care hospital setting;

B. A state and national criminal history background check pursuant to S.C. Code Section 44-61-80 (D); and

C. CPR credential and/or Advanced Cardiac Life Support (ACLS) credential.

#### **114. Special Purpose EMT.**

A. Prior to issuance of a Special Purpose EMT Certificate, the individual shall be employed by an EMS Agency that utilizes the Special Purpose Ambulance and shall be recommended by the EMS Agency's Medical Control Physician.

B. The Special Purpose EMT shall only engage in those practices for which he or she has been trained.

#### **115. Reciprocity.**

A. Candidates seeking reciprocity in South Carolina as an EMT, AEMT, or Paramedic shall:

1. Hold either a NREMT credential or a current certification from another state for the level for which they are applying; and

2. Complete the criminal history background check in accordance with S.C. Code Section 44-61-80(D) and pursuant to Section 113.A.2.

B. Candidates seeking reciprocity who hold a current and valid NREMT certification may apply for direct reciprocity at the level of the NREMT credential they hold by creating an up-to-date profile in the Department's credentialing information system and submitting a complete reciprocity application in a format as determined by the Department. The candidate shall submit the following with the application:

1. A properly completed out-of-state certification verification form;

2. A copy of their current NREMT certification for the level of reciprocity for which they are applying; and

3. All other requirements as established by the Department.

C. South Carolina EMT, AEMT, and Paramedic certificates of direct reciprocity shall expire four (4) years from the date of Certification.

D. A pocket ID card shall be issued along with the South Carolina certificate. The EMT, AEMT, and Paramedic shall have in his or her possession the original pocket card at all times while on-duty or patient care is being rendered.

E. Candidates not certified in South Carolina who hold a current and valid EMT, AEMT, or Paramedic certification from other states may apply for a one (1) year provisional certification at the level they hold. Candidates for provisional certification shall create an up-to-date profile in the Department's credentialing information system and submit a complete reciprocity application in a format as determined by the Department. The candidate shall submit the following with the application:

1. A copy of their current state certification identification card for the level for which he or she is applying that includes the certification expiration date. All candidates with provisional certificates shall have no less than six (6) months remaining on their out-of-state certification by the time the Department receives all required documentation necessary for certification; and

2. All other documentation and requirements as established by the Department.

F. South Carolina provisional certificates for all levels of certification shall expire on the fifteenth (15th) day of the month one (1) year from the date of issue. Provisional certifications are non-renewable, and extensions are not permitted. An active military service member deployed outside of South Carolina may submit a written request in a format as determined by the Department for an extension on his or her provisional Certification and submit a copy of the active duty orders with the request.

G. To convert a South Carolina provisional certification to a conventional South Carolina Certification, the provisional certificate holder shall obtain a NREMT certification and complete the recertification requirements pursuant to Section 115 prior to expiration.

## **116. Certification Examinations.**

A. Applicants for an EMT, AEMT, and Paramedic Certificate shall successfully complete a Department-approved Emergency Medical Technician training program that meets or exceeds the NREMT standards for the desired level of certification. After completion of the training program and prior to certification, the applicant shall successfully pass the NREMT cognitive and the Department-approved psychomotor examination. Each of the candidate's passed portions of the NREMT cognitive and psychomotor examination are only valid for twenty-four (24) months.

B. Psychomotor Examination. The psychomotor portion of the NREMT examination at the EMT level may be delegated to a Department-approved training program as part of the EMT training courses or may be conducted as a separate psychomotor examination approved by the Department.

1. Advanced EMT and Paramedic candidates may make two full attempts to pass the psychomotor examination. One "full attempt" is defined as completing all skills and two retesting opportunities. Candidates shall only be eligible to retest four (4) or less skills when taking a full attempt of the psychomotor examination. Candidates shall only be eligible for two (2) retest attempts of the four (4) or less skills failed. Only one (1) retest attempt may be completed on the same day. Failure of any skill on the second retest attempt constitutes complete failure of the entire psychomotor examination. Candidates who fail five (5) or more skills shall be considered to have failed the entire psychomotor examination.

2. Candidates who fail a full attempt or any portion of a second retest attempt shall submit official documentation of remedial training over all skills before starting the next full attempt of the psychomotor

examination and re-examining over all testing skills, provided all other requirements for NREMT Certification are fulfilled. The candidate shall submit official documentation signed by a Program Director, Training Officer, or Medical Control Physician to the Department that verifies remedial training over all skills has occurred since the last unsuccessful attempt and the candidate has demonstrated competence in all skills.

### **117. Training Programs. (II)**

A. No person, technical college, other college and/or university, Vocational School, State Regional EMS training office, or other entity shall advertise as an EMT, AEMT, or Paramedic training program or conduct EMT, AEMT, or Paramedic training prior to approval as a training program from the Department. The training program applicant shall:

1. Submit a complete application to the Department in a format determined by the Department. Paramedic training program applicants shall submit documentation of CAAHEP accreditation or CoAEMSP Letter of Review with their application to the Department;

2. Designate one (1) person as the EMT, AEMT, or Paramedic program coordinator;

3. Maintain equipment for training purposes as approved by the South Carolina EMS Advisory Council and the South Carolina EMS Training Committee; and

4. Have courses that are open to all prospective trainees with the exception of classes that are closed due to associated security concerns and/or requirements.

B. Departmental approval of a training program is granted for two (2) years. The training program shall complete a renewal application, in format as determined by the Department, prior to the expiration date to be re-approved. The training program shall not conduct courses with an expired Department approval.

C. The training program shall ensure all courses are taught by Department-certified EMT, AEMT, and Paramedic instructors certified by the Department and shall not conduct class without the minimum required equipment available and in working condition.

D. Training programs that instruct ALS level certification shall retain a Medical Control Physician to provide medical oversight over their program.

E. The Training Program shall maintain a fifty percent (50%) first time pass rate on the cognitive and psychomotor portions of the NREMT Examination.

### **118. Continuing Education (CE) Program. (II)**

A. No EMS Agency shall begin or conduct a CE program prior to receiving approval by the Department. EMS Agencies seeking approval for a CE program shall file an application with the Department in a format as determined by the Department.

B. The EMS Agency's CE program approval shall be effective for no more than four (4) years. The Continuing Education Program shall submit a renewal application in a format as determined by the Department prior to the expiration date of the Department's approval.

C. The EMS Agency shall ensure all CE programs meet the requirements established by the NREMT for recertification.

D. CE programs may verify skills for currently credentialed state and NREMT personnel on their CIS roster. Provisional credentialed EMTs must have their NREMT skills verified at a Department-approved NREMT testing site.

### **119. Continuing Education Units (CEUs).**

A. The Department may approve additional CEUs on a case-by-case basis from medical schools, hospitals, simulation centers, training program formal conventions, seminars, workshops, educational classes, and symposiums. All Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS) approved courses are accepted by the Department for CE credit in accordance with NREMT standards.

B. Applicants for CEUs shall submit requests in writing for approval from the Department at least thirty (30) calendar days prior to the scheduled event.

C. The written requests for approval shall include the following:

1. Date, time, and agenda of the event;
2. Topics covered;
3. List of speakers and their credentials; and
4. Any additional information that may be requested by the Department.

### **120. Pilot Study Programs.**

A. The EMS Agency shall not initiate a pilot study program without prior approval by the Department. (I)

B. The EMS Agency that wishes to initiate a pilot study program shall provide in writing to the Department a detailed proposal of the program and any supporting materials requested by the Department. The South Carolina Medical Control Committee and the South Carolina EMS Advisory Council shall provide a written recommendation upon the Department's request.

C. The EMS Agency approved by the Department to initiate a pilot study program shall ensure the participating EMTs, AEMTs, and Paramedics perform the pilot procedures under Medical Control Physician oversight during the period of the pilot program.

D. The EMS Agency shall submit a study at the conclusion of the pilot program to the Department describing the outcome or results of the program.

### **121. Certified EMT, AEMT, and Paramedic Instructors.**

A. All EMTs, AEMTs, and Paramedics shall be certified as an instructor by the Department prior to providing any instruction in a training program and meet the following requirements:

1. Submit a complete and signed Certified EMT, AEMT, or Paramedic instructor application in a format as determined by the Department;

2. Have three (3) years' experience as an EMT;
3. Possess a high school diploma or GED;
4. Possess a current state EMT, AEMT, or Paramedic Certification. The Certified EMT, AEMT, or Paramedic instructor shall only teach at or below the level of his or her Certification level;
5. Successfully completed a forty (40) hours of an instructor methodology course offered by the National Association of EMS Educators (NAEMSE), International Fire Service Accreditation Congress (IFSAC), ProBoard or Department of Defense (DOD) fire instructor, South Carolina Criminal Justice Academy, or other Department-approved course; and
6. Possess a current and valid CPR instructor credential.

B. Instructor Certification Renewal. The certified instructor shall submit a complete and signed renewal application certification prior to the last day of the month in which his or her state EMT certification expires. The renewal application shall include:

1. A copy of a current South Carolina and NREMT EMT, AEMT, or Paramedic certification;
2. A copy of a current and valid CPR instructor credential; and
3. Documentation of all other requirements as determined by the Department.

C. The Department may suspend or revoke an EMT, AEMT, or Paramedic instructor certification for any of the following reasons:

1. Any act of misconduct as outlined in Section 303.B.;
2. Suspension or revocation of the holder's South Carolina or NREMT certification;
3. Failure to maintain required credentials necessary for instructor designation;
4. Any act of sexual harassment toward another instructor or candidate;
5. Conducting classes while under the influence of drugs that negatively impair the ability to instruct (prescribed, non-prescribed, or illegal); and
6. Falsification of any documents pertaining to the course (such as attendance logs, equipment checklist).

## **122. Endorsement of Credentials.**

A. The Department is tasked by S.C. Code Section 44-61-30(A) with developing standards and promulgating regulations for the improvement of emergency medical services.

B. There are areas of specialized practice in EMS which require further education, training, and clinical experience to receive credentials in those specialized areas of care and practice. The Department has an obligation to the public to recognize, endorse, and regulate these specialized practices to ensure a uniform scope of practice across the state.



C. The Department may establish minimum educational and clinical guidelines for these endorsed credentials beyond a Paramedic certification.

D. The Department-endorsed credential may include, but is not limited to, the following areas of specialized training:

1. Community Paramedic;

2. Critical Care Paramedic; and

3. Tactical Paramedic.

E. Endorsement of South Carolina credentials shall only be granted by the Department to Paramedics that are currently certified by the Department and hold an unencumbered current South Carolina certification. If a Paramedic's South Carolina certification is expired, suspended, or revoked by the Department, the endorsement follows the same status as their certification.

F. The specially endorsed South Carolina Paramedics shall only practice their skills within the scope of practice of their Department-approved agency, under a South Carolina licensed Medical Control Physician. Specially endorsed Paramedics are not independent healthcare practitioners.

G. The specially endorsed South Carolina Paramedics shall require additional specialty Continuing Education as determined by the Department.

H. The types of care rendered by the specially endorsed Paramedics shall include, but are not limited to, critical care interfacility services, prehospital services, preventative care, social service referrals, chronic care support, follow-up care and maintenance, and tactical medical support of law enforcement.

I. Licensed agencies using these specialized services shall have specific Protocols by their Medical Control Physician and approved by the Department.

### **123. Variance.**

The EMS Agency, Training Programs, EMTs, AEMTs, Paramedics, and EMT, AEMT, and Paramedic Instructors may request a Variance to this regulation in a format as determined by the Department. Variances shall be considered on a case by case basis by the Department. The Department may revoke issued Variances as determined to be appropriate by the Department.

## **SECTION 200 – ENFORCEMENT OF REGULATIONS**

### **201. Inspections and Investigations. (I)**

A. EMS Agency is subject to Department inspections prior to initial licensing and subsequently as deemed appropriate by the Department.

B. All EMS Agencies, permitted Ambulances, equipment and vehicles, EMTs, training facilities, and instructors are subject to inspection by individuals authorized by the Department at any time without prior notice. The EMS Agency, EMT, training program, and instructor shall provide the Department all requested records and documentation in the manner and within the timeframe specified by the Department.

C. The EMS Agency shall maintain records that include approved patient care report forms, employee or member rosters or both, and training records. The EMS Agency shall grant individuals authorized by the Department access to all properties and areas, objects, requested records, and documentation at the time of the inspection or investigation. The EMS Agency shall provide the Department with photocopies of documentation and records required in the course of inspections or investigations for the purpose of enforcement of regulations. The Department shall maintain confidentiality of the documentation in accordance with Section 44-61-160.

## **202. Plan of Correction.**

When there is noncompliance with this regulation, the EMS Agency, EMT, AEMT, or Paramedic, Training Program, or EMT, AEMT, or Paramedic Instructor shall submit an acceptable plan of correction in a format determined by the Department. The plan of correction shall be signed by the EMS Agency administrator or individual and returned by the date specified on the report of inspection or investigation. The plan of correction shall describe: (II)

- A. The actions taken to correct each cited deficiency;
- B. The actions taken to prevent recurrences (actual and similar); and
- C. The actual or expected completion dates of those actions.

## **203. Consultations.**

Consultations may be provided by the Department as requested by the licensee or certificate holder, or as deemed appropriate by the Department.

### **SECTION 300. ENFORCING REGULATIONS** **SECTION 300 – ENFORCEMENT ACTIONS**

#### **Section 301. General.**

- ~~—A. The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding an EMT, training facility, instructor, Medical Control Physician, or provider in order to enforce these regulations.~~
- ~~—B. The Department reserves the right to make exceptions to these regulations where it is determined that the health and welfare of those being served would be compromised.~~

#### **Section 302. Inspections and Investigations.**

- ~~—A. An inspection shall be conducted prior to initial licensing of a provider and subsequent inspections conducted as deemed appropriate by the Department.~~
- ~~—B. All providers, permitted vehicles, equipment used for rapid response by licensed agencies, EMTs, training facilities, and instructors are subject to inspection or investigation at any time without prior notice by individuals authorized by the Department.~~
- ~~—C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, equipment, and records, and have the authority to require that entity to make photo and/or electronic copies of those documents required in the course of inspections or investigations. These copies shall be used for~~

~~purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings.~~

### **Section 303. Enforcement Actions.**

~~—When the Department determines that an EMT, provider, instructor, or training facility is in violation of any statutory provision, rule, or regulation relating to the duties therein, the Department may, upon proper notice to that entity, impose a monetary penalty and/or deny, suspend, and/or revoke its certification, license, or authorization or take other actions deemed appropriate by the Department. The schedule of fines and monetary penalties is noted in Section 1501.~~

### **Section 3041. Violation Classifications.**

\_\_Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of the persons being served, other employees, or the general public; or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be considered a subsequent violation.

B. Class II violations are those other than Class I violations the Department determines to have a negative impact on the health, safety or well-being of those being served, other employees, or the general public. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be considered a subsequent violation.

D. Class IV violations are those that are specific to vehicle inspections. These violations may escalate based on the frequency and the point value accrued per deficiency identified in the vehicle inspections conducted by the Department.

E. The notations “(I)” or “(II)”, placed within sections of this regulation, indicate that those standards are considered Class I or II violations, if they are not met, respectively. Standards not so annotated are considered Class III violations. Class IV violations are specific to vehicle reinspections which may escalate to Class III violations.

F. In arriving at a decision to take enforcement actions, the Department shall consider the following factors: specific conditions and their impact or potential impact on the health, safety, or well-being of those being served, other employees and the general public, efforts by the EMT, AEMT, Paramedic, provider EMS Agency, training facility program or EMT, AEMT, or Paramedic instructor to correct cited violations; behavior of the entity in violation that reflects negatively on that entity’s character, such as illegal or illicit activities; overall conditions; history of compliance; and any other pertinent factors that may be applicable to current statutes and regulations.

~~—G. A schedule of all monetary penalties is delineated in Section 1501.~~

~~H. Any enforcement action taken by the Department may be appealed pursuant to the Administrative Procedures Act beginning with S.C. Code Section 1-23-310.~~

**Section 302. EMS Agency Fines and Monetary Penalties.**

A. The Department may suspend a license pending an investigation of an alleged violation or complaint. The Department may impose a civil monetary penalty up to five hundred dollars (\$500.00) per offense per day to a maximum of ten thousand dollars (\$10,000.00), revoke, or suspend the license if the Department finds that an EMS Agency has:

1. Allowed uncertified personnel to perform patient care;
2. Falsified forms or documentation as required by the Department;
3. Failed to maintain required equipment as evidenced by past compliance history;
4. Failed to maintain a Medical Control Physician;
5. Failed to maintain equipment in working order; or
6. Failed to respond to a call within the EMS Agency’s service area without providing for response by an alternate service provider.

B. The Department may impose a civil monetary penalty up to five hundred dollars (\$500.00) per offense per day to a maximum of ten thousand dollars (\$10,000.00) and revoke or suspend the EMS Agency’s license or permit if the Department finds that an EMS Agency failed to maintain equipment in working order. When imposing a monetary penalty against an EMS Agency, the Department may utilize the following schedule to determine the dollar amount:

<u>FREQUENCY OF VIOLATION</u>	<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>
<u>1<sup>st</sup></u>	<u>\$300 - 500</u>	<u>\$100 - 300</u>	<u>\$50 - 100</u>
<u>2<sup>nd</sup></u>	<u>\$500 - 1,500</u>	<u>\$300 - 500</u>	<u>\$100 - 300</u>
<u>3<sup>rd</sup></u>	<u>\$1,000 - 3,000</u>	<u>\$500 - 1,500</u>	<u>\$300 - 800</u>
<u>4<sup>th</sup></u>	<u>\$2,000 - 5,000</u>	<u>\$1,000 - 3,000</u>	<u>\$500 - 1,500</u>
<u>5<sup>th</sup></u>	<u>\$5,000 - 7,500</u>	<u>\$2,000 - 5,000</u>	<u>\$1,000 - 3,000</u>
<u>6<sup>th</sup> or more</u>	<u>\$10,000</u>	<u>\$7,500</u>	<u>\$2,000 - 5,000</u>

C. When a licensed agency fails a vehicle reinspection, a Class IV penalty may be levied upon the agency. Pursuant to S.C. Code Section 44-61-70, the following Class IV fine schedule shall be used when a permitted Ambulance or licensed rapid responder service loses points upon reinspection:

<u>FREQUENCY OF VIOLATION</u>	<u>CLASS IV Points</u>	<u>Penalty</u>
<u>1<sup>st</sup></u>	<u>0-24</u>	<u>\$25-50</u>
<u>2<sup>nd</sup></u>	<u>25-50</u>	<u>\$50-100</u>
<u>3<sup>rd</sup></u>	<u>51-100</u>	<u>\$100-300</u>
<u>4<sup>th</sup></u>	<u>101-500</u>	<u>\$300-500</u>
<u>5<sup>th</sup></u>	<u>501-1,000</u>	<u>\$500-1,500</u>
<u>6<sup>th</sup> or more</u>	<u>Over 1,000</u>	<u>\$1,000-3,000</u>

**Section 303. Enforcement Actions against EMTs, AEMTs, and Paramedics.**

A. General. When the Department determines that a certificate holder is in violation of any statutory provision, rule, or regulation, the Department, upon proper notice to the certificate holder, may deny, suspend, or revoke the certificate or assess a monetary penalty in accordance with Section 302.B or both.

B. The Department may take enforcement action, including suspending or revoking a certification and/or assessing a monetary penalty, against the holder of a certificate at any time it is determined that the certification holder:

1. No longer meets the prescribed qualifications set forth by the Department;

2. Has failed to provide to Patients emergency medical treatment of a quality deemed acceptable by the Department, including failure to meet generally accepted standards for provision of care as instructed by the NREMT; or

3. Is guilty of Misconduct. Misconduct, constituting grounds for an enforcement action by the Department, means that while holding a certificate, the holder:

a. Used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with the certification requirements or official documents required by the Department;

b. Was convicted of or currently under indictment for a felony or another crime involving Moral Turpitude, drugs, or gross immorality;

c. Was addicted to alcohol or drugs to such a degree as to render him or her unfit to perform as an EMT, AEMT, or Paramedic;

d. Sustained a mental or physical disability that renders further practice by him or her dangerous to the public;

e. Obtained fees or assisted another in obtaining fees under dishonorable, false, or fraudulent circumstances;

f. Disregarded an appropriate order by a physician concerning Emergency treatment or transportation;

g. At the scene of an accident or illness, refused to administer emergency care based on the age, sex, race, religion, creed, or national origin of the patient;

h. After initiating care of a patient at the scene of an accident or illness, discontinued care or Abandoned the patient without the patient's consent or without providing for the further administration of care by an equal or higher medical authority;

i. Revealed confidences entrusted to him or her in the course of medical attendance, unless this revelation was required by law or is necessary to protect the welfare of the individual or the community;

j. By action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his or her care;

l. Was careless, reckless, or irresponsible in the operation of an emergency vehicle;

m. Performed skills above the level for which he or she was certified or performed skills that he or she was not trained to do;

n. Observed the administration of substandard care by another EMT, AEMT, Paramedic, or other medical provider without documenting the event and notifying a supervisor;

o. By his or her actions or inactions, created a substantial possibility that death or serious physical harm could result;

p. Did not take or complete remedial training or other courses of action as directed by the Department as a result of an investigation or inquiry;

q. Was found to be guilty of the falsification of documentation as required by the Department;

r. Breached a section of the Emergency Medical Services Act of South Carolina or a subsequent amendment of the Act or any rules or regulations published pursuant to the Act.

C. The Department may suspend a certificate pending the investigation of any complaint or allegation regarding the commission of an offense including those listed in Section 303.B.

#### **Section 304. Investigative Review Committee.**

The Department, at its discretion, may convene the Investigative Review Committee when the findings of an official investigation against an entity or an individual regulated by the Department may warrant Suspension or Revocation of a license or certification. The Investigative Review Committee shall be appointed by the Department and shall consist of the State Medical Control Physician, three (3) regional EMS office representatives, at least one (1) Paramedic, and at least one (1) emergency room physician who is also a Medical Control Physician.

### **SECTION 400. LICENSING PROCEDURES SECTION 400 – POLICIES AND PROCEDURES.(II)**

#### **Section 401. Application.**

~~— A. Application for license shall be made to the Department by private firms, public entities, volunteer groups or non-federal governmental agencies. The application shall be made upon forms in accordance with procedures established by the Department and shall contain the following:~~

~~— 1. The name and address of the owner of the licensed provider or proposed licensed provider;~~

~~— 2. The name under which the applicant is doing business or proposes to do business;~~

~~— 3. A copy of the licensed provider or proposed licensed provider's business license (if applicable) for the location of the service;~~

~~— 4. A description of each ambulance, and/or rapid response vehicle, including the make, Vehicle Identification Number (VIN), model, year of manufacture or other distinguishing characteristics to be used to designate applicant's vehicle;~~

~~— 5. The location and description of the place or places from which the licensed provider is intended to operate. The Department shall be notified within five (5) working days of any expansion or contraction of the service, level of care (upgrade or downgrade), or if the headquarters, director or any substation locations are changed;~~

~~— 6. Personnel roster representing all employees, volunteers, and affiliates associated with the service including but not limited to EMTs, non-certified drivers (if applicable), pilots, RNs, certification numbers and expiration dates of their South Carolina and NREMT credentials (if applicable);~~

~~— 7. Type of license applied for;~~

~~— 8. Name, email address, and phone number of Medical Control Physician;~~

~~— 9. Name, email address, and phone number of the following, if applicable;~~

~~— a. EMS Director;~~

~~— b. EMS Assistant Director;~~

~~— c. Training Officer;~~

~~— d. Data Manager; and~~

~~— e. Infection Control Officer.~~

~~— 10. Number of vehicles and level of service provided from each fixed station location;~~

~~— 11. Insurance information, to include name of insurance company, agent, phone number and type of coverage. A copy of insurance policy(ies) shall be furnished to the Department upon request. The minimum limits of coverage shall be six hundred thousand dollars (\$600,000) liability and three hundred thousand dollars (\$300,000) malpractice per occurrence.~~

~~— 12. A copy of the EMS Non-dispensing Drug Permit from the South Carolina Board of Pharmacy. If out-of-state provider, the respective home state equivalent;~~

~~— 13. A copy of the agency's current Drug Enforcement Agency license (both South Carolina and federal), when applicable. If out-of-state provider, the respective home state equivalent;~~

~~— 14. A copy of the agency's Clinical Laboratory Improvement Act (CLIA) waiver from the Centers for Medicare & Medicaid Services (CMS) if agency is providing field laboratory testing such as blood glucose readings or cardiac markers; and~~

~~— 15. Such other information as the Department shall deem reasonable and necessary to make a determination of compliance with this regulation.~~

~~— B. The Department shall issue a license valid for a period of two (2) years when it is determined that all the requirements of this regulation have been met. If disapproved, the applicant may appeal in a manner pursuant to the Administrative Procedures Act beginning with S.C. Code Section 1-23-310.~~

~~— C. Subsequent to issuance of any license, the Department shall cause to be inspected each licensed provider (vehicles, equipment, personnel, records, premises, and operational procedures) whenever that~~

~~service is initially licensed. Thereafter, services will be inspected by the Department on a random basis. These random inspections may be conducted dependent upon past compliance history. The schedule of fines and monetary penalties is noted in Section 1501.~~

~~—D. The Department is herein authorized pursuant to S.C. Code Section 44-61-70, to suspend or revoke a license so issued at any time it determines that the holder no longer meets the requirements prescribed for operating as a licensed provider.~~

~~—E. Renewal of any license issued under the provision of this Act shall require conformance with all the requirements of this Act as upon original licensing.~~

~~—F. The Department shall be notified within five (5) working days when changes of ownership of a licensed provider are impending or occur so that a new license may be issued.~~

~~—G. Conditions which have not been covered in these regulations shall be handled in accordance with the standard practices as interpreted by the Department.~~

#### **Section 402. Medical Control Physician. (1)**

~~Each licensed provider that provides patient care shall retain a Medical Control Physician to maintain quality control of the care provided, whose functions include the following:~~

~~—A. Quality assurance (QA) of patient care including development of protocols, standing orders, training, policies, and procedures; and approval of medications and techniques permitted for field use by direct observation, field instruction, in-service training (IST) or other means including, but not limited to:~~

~~—1. Patient care report review;~~

~~—2. Review of field communications recordings;~~

~~—3. Post run interviews and case conferences; and~~

~~—4. Investigation of complaints or incident reports.~~

~~—B. The Medical Control Physician shall serve as medical authority for the licensed provider, to perform in liaison with the medical community, medical facilities, and governmental entities.~~

~~—C. The Medical Control Physician shall have independent authority sufficient to oversee the quality of patient care for the agency.~~

~~—D. Providers shall register their Medical Control Physician with the Department and provide a copy of their current standing orders and authorized medication list signed and dated by Medical Control Physician.~~

~~—E. The Department must be notified of any change in Medical Control Physician, drug list, or standing orders within ten (10) days of the change.~~

~~—F. The Medical Control Physician may withdraw at his or her discretion, the authorization for personnel to perform any or all patient care procedure(s) or responsibilities.~~



~~—G. All initial Medical Control Physicians must attend a Medical Control Physician Workshop conducted by the Department within twelve (12) months of being designated Medical Control Physician. Failure to attend the above mentioned workshop will result in immediate dismissal from that position.~~

~~—H. Medical Control Physicians shall complete Department mandated continuing education updates to maintain their status.~~

~~—I. Medical Control Physicians may respond to scene calls to render care, function as medical providers, provide medical direction, and/or exercise their medical oversight authority.~~

~~—J. Providers may have multiple Medical Control Physicians especially if they have multiple regional locations.~~

### **Section 403. Non-Credentialed Ambulance Operator or Driver. (H)**

~~—A. An ambulance driver shall:~~

~~—1. Be at least eighteen (18) years old;~~

~~—2. Be physically able to drive;~~

~~—3. Possess a valid (non disqualified) driver's license from South Carolina or home state of provider. In the event of suspension or revocation of the driver's license, the individual shall notify their agency and the agency must notify the Department;~~

~~—4. Have a criminal background check required on initial hire and thereafter every four (4) years which meets the same requirements as certified EMS personnel as noted in Section 902.B; and~~

~~—5. Display a picture ID in a manner visible to the public all times while on duty.~~

~~—B. An ambulance driver shall complete a nationally accredited safety driving course, such as Certified Emergency Vehicle Operator (CEVO), specific to emergency vehicles within the first six (6) months of hire.~~

~~—C. In emergencies that may require a third crew member, such as multiple casualty incidents (MCIs), disasters, or where immediate local EMS resources are taxed, an ambulance may, out of necessity, be driven to the hospital by a member of a fire department, law enforcement agency, or rescue squad. These out of necessity drivers are exempt from Section 403.A and B in this limited context.~~

~~—D. Each EMS agency shall maintain its EMS drivers' records and submit those credentials upon its initial agency license application and bi-annual agency license renewal.~~

### **Section 404. Criteria for License Category Basic Life Support (Ambulance). (H)**

~~(Minimum Standard):~~

~~—A. Shall have ambulances that are permitted pursuant to these regulations.~~

~~—B. Shall have no less than five (5) currently credentialed South Carolina EMTs associated with the provider.~~

~~—C. Shall have staffing patterns, policy and procedure, and if necessary, mutual aid agreements to ensure that an ambulance is en route with at least one (1) EMT and one (1) driver onboard to all emergent responses within five (5) minutes or the next closest staffed ambulance must be dispatched, excluding prearranged transports. Volunteer Services (services not utilizing paid personnel) without onsite personnel must have staffing patterns, policy and procedures, and if necessary, mutual aid agreements to ensure that an ambulance is en route with at least one (1) EMT and one (1) driver onboard to all emergent calls within ten (10) minutes or have the closest staffed ambulance dispatched.~~

~~—D. Vehicle operators or attendants shall not utilize emergency lights and sirens unless the service is responding to a patient with a condition requiring emergency response, as defined in Section 200.G. Vehicle operators or attendants shall not utilize emergency lights and sirens from a call unless the service is conducting an emergency transport, as defined in Section 200.L.~~

~~—E. The provider must demonstrate sufficient equipping and staffing capability to ensure that basic life support consisting of at least automatic defibrillation (AED), basic airway management, obstetrical care, and basic trauma care are onboard the ambulance.~~

~~—F. The Department will, upon request, be furnished with staffing patterns, policy and procedure, and mutual aid agreements that ensures compliance with the en route times noted in Section 404.C.~~

~~—G. Industries that provide ambulance service or rapid medical response for their employees may exempt the minimum number of EMTs noted in Section 404.B, as long as they meet en route times and staffing requirements of the regulations.~~

~~—H. The provider maintains accurate records that include, but are not limited to, approved patient care reports, employee / member rosters, time sheets, CIS rosters, call rosters, training records and dispatch logs that show at least the time call was received, the type of call, and the time the unit was en route. Such records shall be available for inspection by the Department with copies furnished upon request.~~

#### **Section 405. Criteria for License Category—Intermediate Life Support: (Ambulance). (II)**

~~—A. To be categorized as an intermediate life support (ILS) provider, the provider must meet all criteria established for basic life support (BLS), minimum standard. Additionally, the provider must demonstrate sufficient equipping to ensure that life support consisting of at least IV therapy, blind insertion airway devices (BIADs), and defibrillation capability (either manual or by AED) are onboard the ambulance. The minimum staffing of an ILS ambulance shall consist of two (2) EMTs, one (1) of which must be an EMT-I, AEMT or Paramedic, at least ninety five percent (95%) of the time.~~

~~—B. An ILS licensed provider may elect to participate in a tiered response system. The provider must have a process in place to identify the acuity of the incoming EMS request in order to properly triage the response and dispatch the appropriate level unit(s). Triage calls may take place with assets such as Emergency Medical Dispatching (EMD) or other means that identifies whether the request is classified as an “ILS” or “BLS” level of response. BLS personnel may operate on an ILS equipped ambulance in the case where an ILS credentialed responder may intercept the unit. In the case where an ILS responder intercepts a BLS unit with a Quick Response Vehicle (QRV), all equipment needed to raise the level of permitting to ILS must be transferred to the BLS unit prior to commencing patient transport.~~

#### **Section 406. Criteria for License Category—Advanced Life Support: (Ambulance). (II)**

~~—A. To be categorized as an advanced life support (ALS) provider, the provider must meet all criteria established for basic life support, minimum standard. Additionally, the provider must demonstrate~~

sufficient equipping to ensure that life support consisting of IV therapy, advanced airway care, cardiac monitoring, defibrillation capability and drug therapy, approved by the Department and the unit Medical Control Physician, are onboard the ambulance. The minimum staffing of an ALS ambulance shall consist of a minimum of two (2) EMTs, one (1) of which must be a Paramedic at least ninety five percent (95%) of the time.

~~— B. An ALS licensed provider may elect to participate in a tiered response system. The provider must have a process in place to identify the acuity of the incoming EMS request in order to properly triage the response and dispatch the appropriate level unit(s). Triage calls may take place with assets such as Emergency Medical Dispatching (EMD) or other means that identifies whether the request is classified as an “ALS” or “BLS” level of response. BLS personnel may operate on an ALS equipped ambulance in the case where an ALS credentialed responder may intercept the unit. In the case where an ALS responder intercepts a BLS unit with a QRV, all equipment needed to raise the level of permitting to ALS must be transferred to the BLS unit prior to commencing patient transport.~~

#### **Section 407. Criteria for License Category—Special Purpose Ambulance Provider: (Ambulance). (II)**

~~— A. Have an approved vehicle that is in compliance with Section 200.R.1 and meets minimum equipment requirements, as delineated in Section 704.~~

~~— B. Have a Medical Control Physician as delineated in Section 402.~~

~~— C. Provide the Department with copies of policy and procedures for the operation of the special purpose ambulance.~~

~~— D. Provide a list, approved by the Medical Control Physician, of special purpose equipment carried on the special purpose ambulance for review and approval by the Department.~~

~~— E. Provide other license information delineated in Section 401.~~

~~— F. Except during extenuating circumstances, special purpose ambulances shall be used for interfacility transports only.~~

#### **Section 408. Advanced Life Support Information. (II)**

~~— A. Ambulance service providers professing to provide ALS level of care, whether licensed at the ALS level or not, must at all times transport an ALS patient in an ambulance which is fully equipped as an ALS unit, per these regulations, with a Paramedic, physician or RN, as delineated in these regulations, in the patient compartment.~~

~~— B. The minimum staffing for any transport above the BLS level (for BLS licensed providers), shall be two (2) certified EMTs, one (1) of which must be an EMT I, an AEMT, or a Paramedic one hundred percent (100%) of the time. A BLS licensed agency may only deviate from this staffing pattern when responding to a mutual aid call for service. At that time, the units must be staffed with two (2) EMTs, one (1) of which must be a Paramedic ninety five percent (95%) of the time for ALS responses.~~

#### **Section 409. Advertising Level of Care. (II)**

~~Ambulance service providers may not advertise that they provide a level of life support above the category for which they are licensed.~~

**Section 410. Criteria for License Category—EMT Rapid Responder. (H)**

~~—A. Personnel assigned to Rapid Responder duty must be currently certified EMTs with no less than five (5) EMTs associated with the provider. The certification level of the responder must coincide with the agency’s level of licensure. If the Rapid Responder agency is requested to respond, an EMT must respond on calls for an EMT licensed agency and a Paramedic must respond on calls for a Paramedic licensed agency eighty percent (80%) of the time.~~

~~—B. Must have staffing patterns, policy and procedures, to ensure that a Rapid Responder unit is en route with at least one (1) EMT to all emergent calls within five (5) minutes. Volunteer units (services not utilizing paid personnel) without onsite personnel must have staffing patterns, policy and procedures to ensure that a Rapid Responder unit is en route with at least one (1) EMT to all emergent calls within ten (10) minutes.~~

~~—C. The Department will, upon request, be furnished with staffing patterns, policy and procedures to ensure compliance with the en route times noted in Section 410.B.~~

~~—D. The provider maintains records that include, but are not limited to, approved patient care report forms, employee/member rosters, time sheets, call rosters, training records and dispatch logs that show at least time call received, type call and time unit is en route. Such records are to be available for inspection by the Department with copies furnished upon request.~~

**Section 411. Special Exemptions for Volunteer EMS Providers Squads.**

~~—A. A volunteer EMS provider must have an EMT or higher, attending to the patient at the scene and in the ambulance while transporting the patient to the hospital.~~

~~—B. If a volunteer EMS provider has a written response policy in place in which an EMT is allowed to respond directly to the scene from home or work, the ambulance may respond to the scene of the emergency even if an EMT is not on board. If the EMT does not arrive at the scene and another service is immediately available with appropriate staffing, the patient shall be transported by that service. If no other service is immediately available, the patient shall not be transported without at least one (1) EMT on board. Continual and repeated failure of a service to ensure an EMT arrives at the scene to provide care and transport may result in the Department taking disciplinary action against the agency.~~

~~—C. If only one (1) EMT is available to staff the ambulance crew, that EMT must be the patient care provider and/or supervise the patient care being provided. The EMT may not be the driver of the ambulance when a patient is being transported.~~

~~—D. An ambulance shall not respond to the scene of an emergency if it is known in advance that an EMT is not available. All ambulance services shall preplan for the lack of staffing by written mutual aid agreements with neighboring agencies and by alerting the local Public Safety Answering Point (PSAP) as early as possible when you know that EMT level staffing is not available. Careful preplanning, mutual aid agreements, and continual recruitment programs are necessary to ensure sufficient EMT staffing.~~

~~—E. In all cases where the level of care is either EMT-I, AEMT, or Paramedic, the transporting unit shall be fully equipped to perform at that level of care.~~

A. The EMS Agency shall maintain and adhere to written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The EMS Agency shall be in full compliance with its policies and procedures.

B. The EMS Agency shall include in its written policies and procedures :

1. Staffing patterns to ensure compliance with en route times pursuant to Sections 106.B and 107.B;
2. If electing to participate in a tiered response system, policies and procedures and, if necessary, mutual aid agreements in place to identify the acuity of the incoming EMS requests in order to properly triage the response and dispatch the appropriate level of Ambulance;
3. Operation of Special Purpose Ambulance, if applicable;
4. Continuing Patient transport if a vehicle becomes disabled;
5. Hiring practices, employment application, employee training, and conducting background checks for credentialed and non-credentialed personnel;
6. Governing the proper identification of members/employees while providing care or while responding that includes level of certification;
7. Reporting and investigating Incidents pursuant to Section 601;
8. Infection control and prevention and control;
9. Addressing the clean appearance of the EMTs, AEMTs, Paramedics, and Drivers;
10. Ensuring all personnel on an Ambulance or Air Ambulance receive annual blood-borne pathogen training and maintain documentation of the training;
11. Smoking Policy, including prohibiting the use of tobacco products or tobacco-like products (such as electronic cigarettes) in the patient compartment, the operator compartment of Ambulances, or within twenty (20) feet of the Ambulance or any other apparatus in which oxygen is carried; and
12. Recognizing out of service vehicles, which includes a highly visible mechanism at the Driver's position.
13. Addressing all other EMS Agency requirements in this regulation.

C. The EMS Agency shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented and signed by the EMS Agency director. The EMS Agency shall ensure all policies and procedures are accessible to the EMS Agency personnel, printed or electronically, at all times.

~~SECTION 500. PERMITS, AMBULANCE (I)~~  
**SECTION 500 – PERSONNEL REQUIREMENTS (I)**

**Section 501. Vehicle and Equipment.**

~~— A. Before a permit may be issued for a vehicle to be operated as an ambulance, its registered owner must apply to the Department for an ambulance permit. Prior to issuing an original or renewal permit for an ambulance, the Department shall determine that the vehicle for which the permit is issued meets all requirements as to design, medical equipment, supplies and sanitation as set forth in these regulations of~~

~~the Department. Prior to issuance of the original permit, if the ambulance does not meet all minimum requirements and loses points during the inspection, no permit will be issued.~~

~~—B. Permits will be issued for specific ambulances and will be displayed on the upper left hand interior corner of the windshield of the ambulance or in the aircraft portfolio, whichever is applicable.~~

~~—C. No official entry made upon a permit may be defaced, altered, removed or obliterated.~~

~~—D. Permits may be issued or suspended by the Department.~~

~~—E. Permits must be returned to the Department within ten (10) business days when the ambulance or chassis is sold, removed from service, or when the windshield is replaced due to damage.~~

~~—F. The Department must be notified within seventy two (72) hours of any collision (including pedestrians) involving any licensed provider's vehicle or aircraft used to provide emergency medical services including rapid response, that results in any degree of injury to personnel, patients, passengers, observers, students, or other persons. The licensed agency must submit to the Department the vehicle's issued permit (if applicable) if the damage renders the permitted vehicle out of service for more than two (2) weeks. The investigating law enforcement agency's accident report shall also be forwarded to the Department when received by the agency when the above situations occur and the incident is reportable to the Department.~~

~~—G. Licensed transport agencies may utilize Quick Response Vehicles (QRVs) which are non-permitted, first response type vehicles. A QRV will be staffed with a minimum of one (1) provider that is credentialed at a level determined by the local Medical Control Physician (BLS, ILS, ALS) and equipped with locally adopted and Medical Control Physician authorized equipment, also in accordance with the level of credentialing as determined by the Medical Control Physician. For the purpose of this regulation, associated special event vehicles such as motorcycles, watercraft, all terrain vehicles (ATVs), and bicycles fall under the QRV umbrella.~~

~~—H. The Department shall not issue a vehicle or aircraft permit to an EMS provider that is unlicensed in South Carolina.~~

## **Section 502. Temporary Assets.**

~~—A. In cases where a short term solution to an ambulance resource is needed (temporary rentals or loaner ground or air transport units), the Department may issue a temporary permit to a short term asset. These temporary assets shall meet all initial equipment requirements for classification as specified in this regulation for the level of intended service.~~

~~—B. Temporary permits shall be issued for a period not to exceed ninety (90) days and may only be renewed for extraordinary circumstances on a case by case basis.~~

~~—C. Minimum exterior markings.~~

~~—1. Illumination devices shall meet Section 601.F.1 and F.2.~~

~~—2. Emblems and markings shall meet or exceed Section 601.B.1 and B.2 and may be affixed on vehicle with temporary markings.~~

~~— 3. The name of the service as stated in the provider’s license shall be of lettering not less than three (3) inches in height and may be affixed with temporary markings.~~

~~— 4. Temporary permitted air transport units are exempt from the minimal exterior markings requirements.~~

A. The EMS Agency shall ensure an EMT, AEMT, or Paramedic is in the Patient compartment at all times during patient transport. The crew member with the highest level of certification shall determine which crew member will attend the patient during transport.

B. The EMS Agency may utilize registered nurses and physicians from a transferring or receiving medical facility as Ambulance Attendants to assist EMTs in the performance of their duties during transport when all of the following requirements are met:

1. The required medical care of the patient is beyond the scope of practice for the certification level of the EMT;

2. The responsible physician, transferring or receiving, assumes responsibility of the patient or provides appropriate written orders to the registered nurse for patient care; and

3. The registered nurse is on duty with the appropriate medical facility during the ambulance transport.

## SECTION 600. STANDARDS FOR AMBULANCE PERMIT SECTION 600 – REPORTING

### **Section 601. Ambulance Design and Equipment.**

~~The following designs are hereby established as the minimum criteria for ambulances utilized in South Carolina and are effective with the publication of these regulations. Any ambulance purchased after publication of these requirements must meet the following minimum criteria.~~

~~— A. Based Unit: Chassis shall not be less than three quarter ton. In the case of modular or other type body units, the chassis shall be proportionate to the body unit, weight and size; power train shall be compatible and matched to meet the performance criteria listed in the Federal KKK-A-1822 Specification, NFPA 1917, or similar specification standards accepted by the Department; maximum effective sized tires; power steering; power brakes; heavy duty cooling system; heavy duty brakes; mirrors; heavy duty front and rear shock absorbers; seventy (70) amp battery; one hundred (100) amp alternator; front end stabilizer; driver and passenger seat belts; padded dash; collapsible steering wheel; door locks for all doors; inside mirror; inside control handles on rear and side doors; all applicable safety related upgrades on timetables to be determined by the Department after release by the appropriate federal authority.~~

~~— B. Emblems and Markings: All items in this section shall be of reflective quality and in contrasting color to the exterior painted surface of the ambulance.~~

~~— 1. There shall be a continuous stripe, of not less than three (3) inches on cab and six (6) inches on patient compartment, to encircle the entire ambulance with the exclusion of the hood panel.~~

~~— 2. Emblems and markings shall be of the type, size and location as follows:~~

~~— a. Side: Each side of the patient compartment shall have the “Star of Life” not less than twelve (12) inches in height. The word “AMBULANCE”, not less than six (6) inches in height, shall be under or beside~~

~~each star. The name of the licensee as stated on their provider's license shall be of lettering not less than three (3) inches in height.~~

~~—— b. Rear: The word "AMBULANCE", not less than six (6) inches in height, and two (2) "Star of Life" emblems of not less than twelve (12) inches in height.~~

~~—— c. Out of state licensed ground transport units shall meet the same markings and standards as in-state licensed units, unless specifically forbidden by the unit's home state of licensure.~~

~~—— 3. Prior to private sale of ambulance vehicles to the public, all emblems and markings in Section 601.B must be removed.~~

~~— C. Interior Patient Compartment Dimensions:~~

~~—— 1. Length: The compartment length shall provide a minimum of twenty five (25) inches clear space at the head and fifteen (15) inches at the foot of a seventy six (76) inch cot. Minimum inside length will be one hundred sixteen (116) inches.~~

~~—— 2. Width: Minimum inside width is sixty nine (69) inches.~~

~~—— 3. Height: Inside height of patient compartment shall be a minimum dimension of sixty (60) inches from floor to ceiling.~~

~~— D. Access to Vehicle:~~

~~—— 1. Driver Compartment.~~

~~—— a. Driver's seat will have an adjustment to accommodate the 5<sup>th</sup> percentile to 95<sup>th</sup> percentile adult male.\*~~

~~\*Note: This means that the driver's area will accommodate the male drivers who are ninety percent (90%) of the smallest and largest in stature, which includes weight and size.~~

~~—— b. There shall be a door on each side of the vehicle in the driver's compartment.~~

~~—— c. Separation from the patient area is essential to afford privacy for radio communication and to protect the driver from an unruly patient. Provision for both verbal and visual communication between driver and attendant will be provided by a sliding shatterproof material partition or door. The bulkhead must be strong enough to support an attendant's seat in the patient area at the top of the patient's head and to withstand deceleration forces of the attendant in case of accident.~~

~~—— 2. Patient Compartment:~~

~~—— a. There shall be a door on the right side of the patient compartment near the patient's head area of the compartment. The side door must permit a technician to position himself at the patient's head and quickly remove him from the side of the vehicle should the rear door become jammed.~~

~~—— b. Rear doors shall swing clear of the opening to permit full access to the patient's compartment.~~

~~—— c. All patient compartment doors shall incorporate a holding device to prevent the door closing unintentionally from wind or vibration. When doors are open the holding device shall not protrude into the~~



~~access area. Special purpose ambulances are exempt as long as access/egress is not obstructed due to wheelchair ramps or other specialized equipment.~~

~~— d. Spare tire, if carried, shall be positioned such that the tire can be removed without disturbing the patient.~~

~~— E. Interior Lighting:~~

~~— 1. Driver Compartment: Lighting must be available for both the driver and an attendant, if riding in the driving compartment, to read maps, records, or other. There must be shielding of the driver's area from the lights in the patient compartment.~~

~~— 2. Patient Compartment: Illumination must be adequate throughout the compartment and provide an intensity of forty foot (40 foot) candles at the level of the patient for adequate observation of vital signs, such as skin color and pupillary reflex, and for care in transit. Lights shall be controllable from the entrance door, the head of the patient, and the driver's compartment. Reduced lighting level may be provided by rheostat control of the compartment lighting or by a second system of low intensity lights.~~

~~— F. Illumination Devices:~~

~~— 1. Illumination Devices: Flood and load lights. There shall be at least one (1) flood light mounted not less than seventy five (75) inches above the ground and unobstructed by open doors located on each side of the vehicle. A minimum of one (1) flood light, with a minimum of fifteen (15) foot candles, shall be mounted above the rear doors of the vehicle.~~

~~— 2. Warning lights. At a minimum alternating flashing red lights must be on the corners of the ambulance so as to provide three hundred sixty (360) degrees conspicuity.~~

~~— G. Seats:~~

~~— 1. A seat for both driver and attendant will be provided in the driver's compartment. Each seat shall have armrests on each side of driver's compartment.~~

~~— 2. Technician (Patient Compartment): Two (2) fixed seats, padded, eighteen (18) inches wide by eighteen (18) inches high; to head of patient behind the driver, the other one may be square bench type located on curb (right) side of the vehicle. Space under the seats may be designed as storage compartments.~~

~~— H. Safety Factors for Patient Compartment:~~

~~— 1. Cot Fasteners: Crash stable fasteners must be provided to secure a primary cot and secondary stretcher.~~

~~— 2. Cot Restraint: If the cot is floor supported on its own support wheels, a means shall be provided to secure it in position under all conditions. These restraints shall permit quick attachment and detachment for quick transfer of patient. All newly manufactured ambulances purchased for use in South Carolina after July 1, 2017, shall meet all seating and cot restraint mandates outlined in the Federal KKK A 1822F, all change notices included.~~

~~— 3. Patient Restraint: A restraining device shall be provided to prevent longitudinal or transverse dislodgement of the patient during transit, or to restrain an unruly patient to prevent further injury or aggravation to the existing injury.~~

— 4. Safety Belts for Drivers and Attendants:

— a. Quick-release safety belts will be provided for the driver, the attendants, and all seated patients (squad bench). These safety belts will be retractable and self-adjustable.

— 5. Mirrors:

— a. There shall be two (2) exterior rear view mirrors, one mounted on the left side of the vehicle and one (1) mounted on the right side. Location of mounting must be such as to provide maximum rear vision from the driver's seated position.

— b. There shall be an interior rear view mirror or rear view camera to provide the driver with a view of occurrences in the patient compartment.

— 6. Windshield Wipers and Washers:

— a. Vehicle is to be equipped with two (2) electrical windshield wipers and washers in addition to defrosting and defogging systems.

— 7. Sun Visors:

— a. There shall be a sun visor for both driver and attendant.

— I. Environmental Equipment: Driver/Patient Compartment.

— 1. Heating: Shall be capable of heating the compartment to a temperature of seventy-five (75) degrees Fahrenheit within a reasonable period while driving in an ambient temperature of zero degrees Fahrenheit. It must be designed to recirculate inside air, also be capable of introducing twenty percent (20%) of outside air with minimum effect on inside temperature. Fresh air intake shall be located in the most practical contaminant free air space on the vehicle.

— 2. Heating Control: Heating shall be thermostatically or manually controlled. The heater blower motors must be at least a three (3) speed design. Separate switches will be installed in patient compartment.

— 3. Air Conditioning: Air Conditioning shall have a capacity sufficient to lower the temperature in the driver's and patient's compartment to seventy-five (75) degrees Fahrenheit within a reasonable period and maintain that temperature while operating in an ambient temperature of ninety-five (95) degrees Fahrenheit. The unit must be designed to deliver twenty percent (20%) of fresh outside air of ninety-five (95) degrees Fahrenheit ambient temperature while holding the inside temperature specified. All parts, equipment, workmanship, shall be in keeping with accepted air conditioning practices.

— 4. Air Conditioning Controls: The unit air delivery control may be manual or thermostatic. The reheat type system is not required in the driver's compartment unit. Switches or other controls must be within easy reach of the driver in his normal driving position. Air delivery fan motor shall be at least a three (3) speed design. Switches and other control components must exceed in capacity the amperage and resistance requirements of the motors.

— 5. Environmental Control and Medications: The temperature in the patient compartment or anywhere medications are stored (QRVs, fire apparatus, rapid response vehicles, carry in bags, and other) shall be monitored for temperature extremes to prevent drug adulteration. Medications (excluding oxygen) and IV

~~fluids will be removed and discarded if the temperatures reach or exceed one hundred (100) degrees Fahrenheit (thirty eight (38) degrees Celsius). Medications and IV fluids shall also be removed and discarded if temperatures in the drug storage area drop below twenty (20) degrees Fahrenheit (negative seven (-7) degrees Celsius).~~

~~— 6. Insulation: The entire body, side, ends, roof, floor, and patient compartment doors shall be insulated to minimize conduction of heat, cold, or external noise entering the vehicle interior. The insulation shall be vermin and mildew proof, fireproof, non-hygroscopic, non-setting type. Plywood floor when undercoated will be considered sufficient insulation for the floor area.~~

~~— J. Storage Cabinets: All cabinets must meet the criteria as stated in the most current edition of the Federal KKK-A-1822 Specification, NFPA 1917, or similar specification standards accepted by the Department as to types of surfaces, design and storage. Cabinets must be of sufficient size and configuration to store all necessary equipment. All equipment in interior cabinets must be accessible to attendant at all times.~~

~~— K. Two-Way Radio Mobile: Two-way radio mobile equipment shall be included which will provide a reliable system operating range of at least a twenty (20) mile radius from the base station antenna. The mobile installation shall provide microphones for transmitting to at least medical control and receiving agencies, at both the driver's position and in the patient's compartment. Selectable speaker outputs, singly and in combination, shall be provided at the driver's position, in the patient's compartment, and through the PA system.~~

~~— 1. All radio frequencies utilized by a licensed service will be provided to the Department.~~

~~— 2. In the event technological advancements render the above components obsolete, the Department shall make determinations as to the efficacy of proposed technology on an individual basis prior to allowing their use.~~

~~— L. Siren Public Address: Siren and public address systems shall be provided. If a combined electronic siren and public address system is provided, in siren operation, the power output shall be minimum one hundred (100) watts. In voice operation the power output shall be at least forty five (45) watts through two (2) exterior mounted speakers. The public address amplifier shall be independent of the mobile radio unit.~~

~~— M. Antenna: Mounted with coaxial or other appropriate cable.~~

~~— N. Glass Windows: All windows, windshield and door glass must be shatterproof.~~

~~— O. Smoking Policy: Use of tobacco products or tobacco-like products (such as electronic cigarettes) is prohibited in the patient compartment and in the operator compartment of ambulances by all occupants.~~

~~— P. The EMS provider shall establish a means to immediately identify that a vehicle is out of service for any operator who might have reason to use the vehicle. Any vehicle that is "out of service" whether for mechanical or staffing issues must be readily identifiable to the public and the Department. Out of service apparatus shall be identified by one (1) of the following means:~~

~~— 1. Sign on outside of the driver's door near the door handle, minimum eight and one half inches by eleven inches (8.5" x 11") and red in color;~~

~~— 2. Special bag that covers the steering wheel, red in color, and labeled "Out of Service;"~~

— 3. Large sign on the driver’s window, red in color, reading “Out of Service,” laminated, or a permanent, commercially manufactured type, minimum eight and one half inches by eleven inches (8.5” × 11”). If the unit is being driven and is out of service, the sign may be placed in the far right hand corner of the front window so as to not obstruct the driver’s vision but so as to be visible from the exterior of the vehicle; or

— 4. Highly visible mechanism at the driver’s position on the vehicle that all members of the EMS provider recognize as an out of service indicator and is identified by a provider policy or standard operating procedure.

**601. Incident Reporting (I).**

A. The EMS Agency shall maintain a record of each Incident. The EMS Agency shall retain all documented Incidents reported pursuant to this section six (6) years after the patient contact or transport.

B. The EMS Agency shall report Incidents to the Department via the Department’s electronic reporting system or as otherwise determined by the Department as soon as possible, but not to exceed twenty-four (24) hours of the Incident. Incidents requiring reporting include, but are not limited to:

1. Confirmed or Suspected Abuse, Neglect, or Exploitation against a patient by EMS Agency staff;
2. Crimes committed against patients;
3. Unexpected or unexplained death of a patient while under the care of the EMS Agency;
4. Any suspected overdose reversal;
5. Elopement of Patient from a scene or a transport unit;
6. Any injury caused after the EMS Agency has arrived on scene, including injuries involving the use of restraints;
7. Hospitalization as a result of an accident and/or Incident;
8. Medication Error;
9. Suicide and/or attempted suicide while under the EMS Agency’s care;
10. Any accident involving an EMS Agency vehicle or aircraft where injury occurred to any occupant, an occupant of another vehicle involved, pedestrian, or by-stander or that renders the unit out of repair or replacement.
11. Any patient that is dropped or falls while under the care of an EMS Agency, including where no injury occurs, to include stretcher drops due to malfunction or operator error;
12. Any suspected or confirmed use of illicit or un-prescribed medications or alcohol by a crew member while on duty, to include providing patient care and/or the operation of an EMS Agency vehicle; and
13. Felony arrest of an EMT, AEMT, or Paramedic.

C. The EMS Agency shall submit a separate written investigation report within five (5) days of every Incident required to be immediately reported to the Department pursuant to Section 601.B via the

Department's electronic reporting system or as otherwise determined by the Department. The EMS Agency's investigation report to the Department shall include the following information:

1. EMS Agency name, License number, type of accident and/or Incident, the date of accident and/or Incident occurred,

2. Number of patients, staff, or by-standers directly injured or affected,

3. Electronic patient care report (ePCR) number, if applicable,

4. Patient name, age, and gender

5. Witness(es) name(s),

6. Identified cause of accident and/or Incident, internal investigation results if cause unknown, a brief description of the accident and/or Incident including location where occurred, treatment of injuries, and cause of errors or omission in patient care rendered, if applicable.

### **602. Collisions.**

The EMS Agency shall notify the Department within seventy-two (72) hours of any collision involving any EMS Agency's vehicle or aircraft used to provide emergency medical services that results in any degree of injury to personnel, pedestrians, patients, passengers, observers, students, or other persons. The EMS Agency shall submit the Ambulance permit, if applicable, to the Department if the damage renders the Ambulance out of service for more than two (2) weeks. The EMS Agency shall submit the investigating law enforcement agency's accident report regarding the collision to the Department upon the EMS Agency's receipt.

### **603. Animal Bites, Communicable Diseases, and Infections.**

The Agency shall immediately report animal bites, communicable diseases, and infections in accordance with R.61-20, Communicable Diseases, to the Department's local health department and the Department's EMS Program. The Agency shall maintain documentation of reported animal bites, diseases, and infections.

### **604. Administration Changes.**

A. The EMS Agency shall notify the Department in writing within seventy-two (72) hours of any expansion or contraction of the service, level of care, upgrade or downgrade, or if the physical locations are changed;

B. The EMS Agency shall notify the Department in writing or a means as otherwise determined by the Department within seventy-two (72) hours of any change in status of the EMS Director or EMS Training Officer. The Licensee shall provide the Department in writing within ten (10) calendar days the name of the person(s) appointed or hired into those positions and the effective date of the appointment or hire.

C. The EMS Agency shall immediately, within twenty-four (24) hours, notify the Department of any change in status to the Medical Control Physician. The provider shall notify the Department in writing or other means as determined by the Department the name of the newly appointed Medical Control physician, the effective date, the authorized medication list, Protocols, and standing orders within ten (10) calendar days after the change.

**605. Accounting of Controlled Substances (I).**

Any EMS Agency registered with the Department’s Bureau of Drug Control and the United States Drug Enforcement Administration shall report any theft or loss of Controlled Substances to local law enforcement and to the Department’s Bureau of Drug Control within seventy two (72) hours of the discovery of the loss and/or theft. Any Agency permitted by the South Carolina Board of Pharmacy shall report the loss or theft of drugs or devices in accordance with S.C. Code Section 40-43-91.

**606. Agency Closure.**

A. Prior to the permanent closure of an EMS Agency, the Licensee shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) calendar days of the closure, the EMS Agency shall notify the Department of the provisions for the maintenance of all records including the custodian of the patient care reports. On the date of closure, the EMS Agency shall return its license and all Ambulance permits to the Department.

B. In instances where an EMS Agency temporarily closes, the Licensee shall notify the Department in writing within fifteen (15) calendar days prior to temporary closure. In the event of temporary closure due to an emergency, the EMS Agency shall notify the Department within twenty-four (24) hours of the closure via telephone or email. At a minimum, this notification shall include, but not be limited to, the reason for the temporary closure, the manner in which the records and patient care reports are being stored, and the anticipated date for reopening.

C. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current standards of the EMS Agency prior to its reopening. If the EMS Agency is closed for a period longer than six (6) months and there is a desire to reopen, the EMS Agency shall reapply to the Department for licensure and shall be subject to all licensing requirements at the time of that application.

**SECTION 700. EQUIPMENT (II)**  
**SECTION 700 – PATIENT CARE**

**Section 701. Minimum Ambulance Medical Equipment.**

~~The Joint Policy Statement on Equipment for Ground Ambulances (JPS) provides a recommended core list of supplies and equipment that shall be stocked on all ambulances to provide the accepted standards of patient care. For the purposes of this regulation, the following definitions from the JPS have been used:~~

- ~~— Neonate: zero to twenty eight (0-28) days of age;~~
- ~~— Infant: twenty nine (29) days to one (1) year; and~~
- ~~— Child one (1) year old to eighteen (18), with delineations as follows:~~
- ~~— Toddlers: one to two (1-2) years old;~~
- ~~— Preschoolers: three to five (3-5) years old;~~
- ~~— Middle childhood: six to eleven (6-11) years old; and~~
- ~~— Adolescents: twelve to eighteen (12-18) years old.~~

Starting July 1, 2016, all ambulances shall be equipped with, but not limited to, all of the following:

— A. Minimum of two (2) stretchers;

— 1. ~~One (1) multilevel, elevating, wheeled cot with elevating back. Two (2) patient restraining straps (chest and thigh) minimum, at least two (2) inches wide shall be provided.~~

— 2. ~~One (1) secondary patient transport stretcher, with a minimum of two (2) patient restraining straps. Minimum acceptable stretcher is vinyl covered, aluminum frame, folding stretcher.~~

— B. Suction Devices;

— 1. ~~An engine vacuum operated or electrically powered, complete suction aspiration system, shall be installed permanently on board to provide for the primary patient. It shall have wide bore tubing.~~

— 2. ~~Portable suction device with regulator with at least a six (6) ounce reservoir.~~

— 3. ~~Wide bore tubing, rigid pharyngeal curved suction tip; tonsil and flexible suction catheters, 6 Fr-16 Fr, are commercially available must have two (2) between 6F and 10F and two (2) between 12 Fr and 16 Fr.~~

— C. Oxygen Equipment;

— 1. ~~Portable Oxygen Equipment: Minimum “D” size (360 Liter) cylinder, two (2) required (one (1) in service and one (1) full and sealed). Liter flow gauges shall be non-gravity, dependent type. Additionally, when the vehicle is in motion, all oxygen cylinders shall be readily accessible and securely stored.~~

— 2. ~~Permanent On Board Oxygen Equipment: The ambulance shall have a hospital grade piped oxygen system, capable of storing and supplying a minimum of 2400 liters of humidified medical oxygen.~~

— 3. ~~Single use, individually wrapped, non-rebreather masks and cannulas in adult and pediatric sizes shall be provided (three (3) each).~~

— 4. ~~A “No Smoking” sign shall be prominently displayed in the patient compartment.~~

— 5. ~~Pulse oximeter with adult and pediatric capabilities. Special Purpose Ambulances shall also maintain infant pulse oximetry capabilities.~~

— D. Bag Mask Ventilation (BVM) Units;

— 1. ~~One (1) adult, one (1) pediatric, one (1) infant: hand operated. Valves must operate in all weather, and unit must be equipped to be capable of delivering ninety to one hundred percent (90-100%) oxygen to the patient. BVMs must include safety pop-off mechanism with override capability. Three (3) additional masks sizes small adult, toddler, and neonate shall be carried.~~

— E. Nonmetallic Oropharyngeal (OPA) (Berman type) and Nasopharyngeal Airways (NPA);

— 1. ~~All airways shall be clean and individually wrapped.~~

— 2. ~~“S” tube type airways may not be substituted for Berman type airways.~~

— 3. One each of the following sizes: NPA: 14 Fr 34 Fr and OPA sizes to accommodate neonate through large adult.

— F. Bite sticks commercially made (clean and individually wrapped);

— G. Eight (8) sterile dressings (minimum size five (5) inches by nine (9) inches);

— H. Twenty four (24) sterile gauze pads four (4) inches by four (4) inches;

— I. Ten (10) bandages, self-adhering type, minimum three (3) inches by five (5) yards. Bandages must be individually wrapped or in clean containers;

— J. A minimum of two (2) commercial sterile occlusive dressings, four (4) inches by four (4) inches;

— K. Adhesive Tape, hypoallergenic, one (1) inch, two (2) inch, and three (3) inches wide;

— L. Burn sheets, two (2), sterile;

— M. Splints;

— 1. Traction type, lower extremity, overall length of splint minimum of forty three (43) inches, with limb support slings, padded ankle hitch, traction device and heel stand. Either the Bi-polar or Uni-polar type is acceptable.

— 2. Padded type, two (2) each, three (3) feet long, of material comparable to four-ply wood for coadaptation splinting of the lower extremities.

— 3. Padded wooden type, two (2) each, fifteen (15) inches by three (3) inches, for fractures of the upper extremity. Commercially available arm or leg splints may be substituted for items in Section 701.M.2 above, such as cardboard, metal, pneumatic, vacuum, or plastic.

— N. Spinal immobilization devices;

— 1. Commercially available vest type KED, XPI or other equivalent is acceptable.

— 2. Child backboard or pediatric board or any type commercially available spinal immobilization device sized for the pediatric patient.

— 3. Long spine board, at least sixteen (16) inches by seventy two (72) inches constructed of three-quarter (3/4) inch impervious material and having at least three-quarter (3/4) inch runners on each side for lifting with appropriate straps. If not equipped with runners, board must be designed so handholds are accessible with work gloves.

— 4. Cervical collars to accommodate the infant, child, adolescent, and adult sizes. Collars must be manufactured of semi-rigid or rigid material. Commercially available adjustable collars may be substituted, must carry two (2) of each child adjustable and adult adjustable.

— 5. Six (6) patient restraint straps or commercially available disposable straps to accommodate patients from large adult to child sizes.



- ~~— 6. Head immobilization device, commercially available or towel or blanket rolls.~~
- ~~— O. Three (3) each triangular bandages;~~
- ~~— P. Two (2) blankets;~~
- ~~— Q. Bandage shears, large size or trauma shears;~~
- ~~— R. Obstetrical kit, sterile. The kit shall contain gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, bulb syringe and a receiving blanket for delivery of infant;~~
- ~~— S. Blood pressure manometer, cuff and stethoscope;~~
- ~~— 1. Blood pressure set, portable, both pediatric and adult.~~
- ~~— 2. Stethoscopes (adult and pediatric capable).~~
- ~~— T. Emesis basin or commercially available emesis container;~~
- ~~— U. Bedpan and urinal;~~
- ~~— V. Two (2) functional battery operated, hand-carried flashlights or electric lanterns, suitable for illuminating both a localized work area or a walkway. Penlights do not meet this requirement;~~
- ~~— W. Minimum of one (1) fire extinguisher, CO2 or dry chemical, five (5) pound capacity, type ABC;~~
- ~~— X. Working gloves, two (2) pair with leather palms and reflective vests that meet American National Standard (ANSI 201) for High Visibility Public Safety Vests for each crew member;~~
- ~~— Y. Minimum of 1000 cc of sterile water or normal saline solution for irrigation;~~
- ~~— Z. Protective head gear and eye protection devices (minimum two (2) each) must be carried on each ambulance. Standard fire helmet face shield is not acceptable;~~
- ~~— AA. Latex-free personal protective equipment including gloves, masks, gowns and eye shields;~~
- ~~— BB. Automated External Defibrillator (AED) unless staffed by ALS personnel who are utilizing a manual monitor or defibrillator. Monitor may be utilized by BLS personnel if “AED Mode” is an available setting. The AED shall have pediatric capabilities, including child sized pads or a dose attenuator with adult pads;~~
- ~~— CC. Flameless Flares: Three (3) red reflectorized (such as reflective triangles) or chemically induced illumination devices may be substituted for flares. Combustible type flares are not acceptable;~~
- ~~— DD. One (1) set battery jumper cables, minimum 04 gauge copper, 600 amp rating;~~
- ~~— EE. Glucometer with a minimum of five (5) test strips (Medical Control Option);~~
- ~~— FF. One (1) commercially available arterial tourniquet device; and~~
- ~~— GG. Five (5) adhesive bandages.~~

## **Section 702. Intermediate and Advanced Equipment.**

Ambulances providing intermediate and advanced life support must, in addition to meeting all other requirements of Section 701 must have the following equipment:

- A. Butterfly or scalp vein needles between nineteen (19) and twenty five (25) gauge, a total of four (4) (Medical Control Option);
- B. Four (4) each fourteen (14), sixteen (16), eighteen (18), twenty (20), twenty two (22), and twenty four (24) gauge IV cannulae;
- C. Two (2) macro drip sets;
- D. Two (2) micro drip sets;
- E. Three (3) twenty one (21) or twenty three (23) and three (3) twenty five (25) gauge needles, total six (6) as an MCO;
- F. Three (3) intravenous (IV) tourniquets;
- G. Laryngoscope handle with batteries;
- H. Laryngoscope blades, adult, child, and infant sizes;
  - 1. 0 4 Miller.
  - 2. 1 4 Macintosh.
- I. One (1) each disposable endotracheal tubes sizes as well as intubation stylettes sized for each tube;
  - 1. 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, 5.5 mm cuffed or uncuffed.
  - 2. 6.0, 6.5, 7.0, 7.5, 8.0 mm.
- J. Equipment for drawing blood samples as an MCO;
- K. Syringes, two (2) each 1 ml, 3 ml, 10 ml, 20 ml, and one (1) greater than or equal to 50 ml;
- L. Twelve (12) alcohol and iodine preps for preparing IV injection sites;
- M. A minimum of four (4) liters of normal saline or other appropriate IV solution;
- N. Intraosseous devices;
  - 1. Pediatric—minimum of two (2) sizes.
  - 2. Adult—Minimum of one (1) size as an MCO.
- O. Ambulances providing advanced cardiac life support must be equipped with a battery powered (DC) portable monitor defibrillator unit, appropriate for both adult and pediatric patients with ECG printout and capable of transcutaneous pacing. The monitor defibrillator equipment utilized by the service must have

~~the capability of producing hard copy of patient's ECG, a 12-lead ECG, and performing continuous monitoring of end-tidal carbon dioxide (EtCO<sub>2</sub>) output. Portable EtCO<sub>2</sub> devices that meet the same criteria as above may be substituted;~~

~~—P. Such medications or fluids as may be approved by the Department for possession and administration by EMTs trained and certified in their use and authorized by the provider's Medical Control Physician, as documented to the Department;~~

~~—Q. Magill Forceps;~~

~~——1. Adult.~~

~~——2. Pediatric.~~

~~—R. Blind Insertion Airway Devices (BIADs) such as dual lumen or LMA airways, age and weight appropriate;~~

~~—S. Portable sharps container; and~~

~~—T. Pediatric length-based, weight-based, or age-based medication dose chart or tape.~~

### **Section 703. EMT Rapid Responder Equipment.**

~~—A. All licensed Rapid Responder agencies operating within the state shall carry equipment required in the following sections. Protocols submitted must indicate areas where Medical Control Option (MCO) equipment is being authorized.~~

~~—B. The Rapid Responder agency's vehicle must be properly marked as to identify the vehicle as an emergency vehicle.~~

~~—C. The Rapid Responder agency shall follow the exact equipment cleanliness guidelines as outlined for transporting providers in Section 800.~~

~~—D. All Rapid Responder vehicles will be equipped with at least the following items from Section 701: B.2, B.3, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, V, W, X, Y, Z, AA, BB.~~

~~—E. Age and weight appropriate BIADs (Section 702.R) are an MCO for all Rapid Responder licenses.~~

~~—F. Equipment in addition to Section 703.E to be carried by EMT I or AEMT Rapid Responders:~~

~~——1. Four (4) each, fourteen (14), sixteen (16), eighteen (18), twenty (20), and twenty-two (22) gauge IV cannulae;~~

~~——2. Two (2) macro drip sets;~~

~~——3. Two (2) micro drip sets;~~

~~——4. One (1) sharps container;~~

~~——5. A minimum of four (4) liters of normal saline or other appropriate IV solution;~~

- 6. Three (3) IV tourniquets;
  - 7. Twelve (12) each, alcohol and iodine preps for preparing IV injection sites;
  - 8. Five (5) adhesive bandages; and
  - 9. Such medications or fluids as may be approved by the Department for possession and administration by EMTs trained and certified in their use and authorized by the provider's Medical Control Physician, as documented to the Department.
- G. Equipment in addition to Section 703.F to be carried by Paramedic Rapid Responders:
- 1. Rapid Responders providing ALS must be equipped with a battery powered (DC) portable monitor-defibrillator unit, appropriate for both adult and pediatric patients with ECG printout and capable of transthoracic pacing. The monitor-defibrillator equipment utilized by the service must have the capability of producing a hard copy of the patient's ECG and performing continuous monitoring of end-tidal carbon dioxide (EtCO<sub>2</sub>) output;
  - 2. Such medications or fluids as may be approved by the Department for possession and administration by EMTs trained and certified in their use and authorized by the provider's Medical Control Physician, as documented to the Department;
  - 3. As an MCO, ALS Rapid Responders may carry the following equipment from Section 702: G, H, I, P, S; and
  - 4. ALS Rapid Responder agencies not providing laryngoscopic intubation must carry age and weight appropriate BIADs for airway management.
- H. Any ALS agency not performing laryngoscopic intubations, and only providing BIADs for airway management, is not required to provide continuous monitoring of end-tidal carbon dioxide (EtCO<sub>2</sub>) output.

**Section 704. Special Purpose Ambulance Equipment.**

- A. All special purpose ambulances shall be equipped with at least the following items from Section 701: A.1, B, C, D (appropriate size), E, F, T, U, V, W, X, AA, BB, CC in addition to the special purpose equipment that is documented to the Department as enumerated in Section 407. Section 407.A.1 can be replaced by a specialized patient transfer device so long as there is a provision to safely secure the device in the special purpose ambulance.
- B. Special purpose equipment as documented to the Department as enumerated in Section 407 must be on the special purpose ambulance when it is in use and is subject to inventory and inspection by the Department as provided for in Section 407.

**701. General.**

- A. The EMS Agency shall create and submit an Electronic Patient Care Report (ePCR) for each patient contact regardless of patient transport decision.
- B. The EMS Agency shall ensure the primary care Attendant documents all ePCRs within twenty-four (24) hours of the conclusion of call in the Department's EMS data system.

C. The EMS Agency shall submit all completed ePCRs into the Department's EMS data system within seventy-two (72) hours of the conclusion of call.

D. The EMS Agency shall submit each ePCR to the receiving facility within thirty (30) minutes of the completion of the call. The EMS Agency may substitute a paper pre-run information sheet, provided the ePCR is made available to the receiving facility no later than twenty-four (24) hours from completion of the call.

### **702. Data Manager.**

A. The EMS Agency shall appoint a Data Manager to ensure accuracy, HIPAA compliance, security, timely submission of ePCRs into NEMSIS, and that the ePCRs reflect all the Attendants on the Incident, including drivers. The EMS Agency shall notify the Department of any change in the Data Manager within ten (10) calendar days.

B. The EMS Agency shall ensure the Data Manager attends a Department-approved data management workshop within eighteen (18) months.

### **703. Content.**

A. The EMS Agency's ePCR shall reflect services, treatment, and care provided directly to the patient including information required to properly identify the patient, a narrative description of the call from time of first patient contact to final destination, all providers on the call, and other information as determined by the Department.

B. The EMS Agency shall ensure all ePCRs are coherently written, authenticated by the author, and time stamped.

C. The EMS Agency shall complete ePCRs involving refusals to include the following: details of any assessment performed; information regarding the patient's capacity to refuse; information regarding an informed refusal by the patient; information regarding provider's efforts to convince the patient to accept care; and any efforts by the provider to protect the patient after the refusal if the patient becomes incapacitated.

D. The EMS Agency shall ensure all data submissions from the ePCR software maintains a quality score no higher than fifty percent (50%) of the average state data quality score, as provided by the Department's vendor. The EMS Agency shall have ninety (90) calendar days from the Department's notification to successfully correct data quality.

### **704. Report Maintenance.**

A. The EMS Agency shall ensure data submissions from ePCR software into the state data system meet the Department's requirements.

B. The EMS Agency shall provide accommodations and equipment for the protection, security, and storage of patient care reports.

C. The EMS Agency shall maintain a copy of the original data, all attachments, and appended versions of each ePCR for no less than ten (10) years for all adult patients and thirteen (13) years for minor patients pursuant to S.C. Code Section 44-115-120. The EMS Agency shall ensure attachments to ePCRs include EKGs, waveform capnography records, code summaries, short reports, and other forms of recorded media.

D. In the event of a change of ownership, the EMS Agency shall ensure patient care reports are transferred to the new licensee.

E. The EMS Agency shall ensure the ePCRs are made available only to individuals authorized by the licensee and/or state and federal laws.

F. When patient care is transferred, the EMS Agency shall ensure the receiving agency or healthcare facility receives the copy of the patient care report within sixty (60) minutes to ensure continuity in quality care.

#### **705. Do Not Resuscitate (DNR) Order. (II)**

A. EMTs, AEMTs, and Paramedics shall not use any Resuscitative Treatment when called to render emergency medical services if the Patient has a DNR Order and the document is presented to the EMT, AEMT, or Paramedic upon their arrival or if the Patient is wearing a Bracelet.

B. EMTs, AEMTs, and Paramedics shall provide that degree of Palliative Care called for under the circumstances which exist at the time treatment is rendered.

C. EMTs, AEMTs, and Paramedics shall give full resuscitative measures as are medically indicated in all cases in the absence of a DNR Order or a Bracelet.

D. EMTs, AEMTs, and Paramedics shall follow the request of the Patient and shall not provide resuscitative measures when the Patient has a DNR Order or is wearing a Bracelet, except where the:

1. DNR Order is revoked pursuant to S.C. Code Section 44-78-60; or

2. Bracelet, when applicable, appears to have been tampered with or removed.

E. EMTs, AEMTs, and Paramedics who cannot honor the DNR Order or Bracelet shall immediately transfer care of the Patient to an EMT, AEMT, or Paramedic, or a Healthcare Provider who will honor the DNR or Bracelet.

#### **706. Physician Orders for Scope of Treatment (POST). (II)**

A. EMTs, AEMTs, and Paramedics shall deem a POST form executed in South Carolina as provided in the POST Act or a similar form executed in another jurisdiction in compliance with the laws of that jurisdiction. EMTs, AEMTs, and Paramedics shall accept a completed, executed, and signed POST form deemed as valid expression of a Patient's wishes as to health care.

B. EMTs, AEMTs, and Paramedics may accept a properly executed POST form as a valid expression of whether the Patient consents to the provision of health care in accordance with Section 44-66-60 of the Adult Health Care Consent Act.

C. An EMT, AEMT, or Paramedic that is unwilling to comply with an executed POST form based on policy, religious beliefs, or moral convictions shall contact the Patient's health care representative, health care agent, or the person authorized to make health care decisions for the Patient pursuant to Section 44-66-30 of the Adult Health Care Consent Act, and the EMT, AEMT, or Paramedic shall allow the transfer of the Patient to another healthcare provider or health care facility.

## SECTION 800. SANITATION STANDARDS FOR LICENSED PROVIDERS

### **Section 801. Exterior Surfaces.**

- ~~—A. The exterior of the vehicle shall have a reasonably clean appearance.~~
- ~~—B. All exterior lighting shall be kept clear of foreign matter (insects, road grime, or other) to ensure adequate visibility.~~

### **Section 802. Interior Surfaces Patient Compartment Ambulance.**

- ~~—A. Interior surfaces shall be of a nonporous material to allow ease of cleaning. Carpet type materials shall not be used on any surface of the patient compartment.~~
- ~~—B. Floors shall be free from sand, dirt and other residue that may have been tracked into the compartment.~~
- ~~—C. Wall, cabinet, and bench surfaces shall be kept free of dust, sand, grease, or any other accumulated surface matter.~~
- ~~—D. Interiors of cabinets and compartments shall be kept free from dust, moisture or other accumulated foreign matter.~~
- ~~—E. Bloodstains, vomitus, feces, urine and other similar matter must be cleaned from the unit and all equipment after each call, using an agent or sodium hypochlorite solution described in Section 802.H.~~
- ~~—F. Window glass and cabinet doors shall be clean and free from foreign matter.~~
- ~~—G. A receptacle shall be provided for the deposit of trash, litter, and all used items.~~
- ~~—H. An EPA recommended germicidal/virucidal agent or a hypochlorite solution of ninety-nine (99) parts water and one (1) part bleach must be used to clean patient contact areas. For surfaces where such an EPA solution is not recommended, alcohol or sodium hypochlorite solution can be used.~~
- ~~—I. A container specifically for the deposit of contaminated needles or syringes and a second container for contaminated or infectious waste shall be provided and will be easily accessible from the patient compartment.~~
- ~~—J. All licensed providers must carry sufficient, appropriate cleaning supplies in their vehicles so that the crews are able to clean their unit between calls and be in compliance with Sections 802.A through G.~~

### **Section 803. Linen.**

- ~~—A. Storage area for clean linens shall be provided in such configuration so that linens remain dry and clean. (Ambulance)~~
- ~~—B. Freshly laundered or disposable linens (minimum of six (6) sets) shall be used on cots and pillows, and shall be changed after each patient is transported. (Ambulance)~~
- ~~—C. Soiled linen is to be transported in a closed plastic bag or container and removed from the ambulance as soon as possible.~~

~~—D. Blankets and towels shall be clean and stored in such a manner to ensure cleanliness.~~

~~—1. Towels and sheets shall not be used more than once between laundering.~~

~~—2. Blankets shall be laundered or cleaned as they become soiled. Blankets shall preferably be of a hypoallergenic material designed for easy maintenance.~~

#### **Section 804. Oxygen Administration Apparatus. (H)**

~~—A. Oxygen administration devices such as masks, cannulas, and delivery tubing shall be disposable and once used shall be disposed of and not reused.~~

~~—B. All masks and cannulas and tubing shall be individually wrapped and not opened until used on a patient.~~

~~—C. Oxygen humidifiers shall be filled with distilled or sterile water upon use only. Reusable humidifiers must be cleaned after each use. Disposable, single-use humidifiers are acceptable in lieu of multiuse types.~~

~~—D. All units that carry portable oxygen must have a non-sparking oxygen wrench for use with the oxygen tanks on that unit.~~

#### **Section 805. Resuscitation Equipment. (H)**

~~—A. Bag mask assemblies and masks shall be free from dust, moisture, and other foreign matter and stored in the original container, jump kit, or a closed compartment to promote sanitation of the unit. Additional equipment needed to facilitate the use of a bag valve mask, such as a syringe, shall be stored with the bag mask assembly. Masks, valves, reservoirs, and other items or attachments for bag mask assemblies shall be clean. Manufacturer's recommendations on single-use equipment shall be followed where indicated.~~

~~—B. An EPA recommended germicidal/virucidal agent or a sodium hypochlorite solution of ninety-nine (99) parts water and one (1) part bleach must be used to clean equipment not specifically addressed as single-use. For surfaces where such an EPA solution is not recommended, alcohol or sodium hypochlorite solution shall be used.~~

#### **Section 806. Suction Unit.**

~~—A. Suction hoses shall be clean and free from foreign matter. Manufacturer's recommendations on single-use equipment must be followed where indicated.~~

~~—B. Suction reservoir shall be clean and dry.~~

~~—C. Suction units shall be clean and free from dust, dirt or other foreign matter.~~

~~—D. Tonsil tips and suction catheters shall be of the single-use, disposable type, stored in sealed, sterile packaging until used.~~

~~—E. Suction units with attachments shall be cleaned and sanitized after each use. (See Section 805.B).~~

#### **Section 807. Splints.**



- ~~— A. Padded splints shall be neatly covered with a non-permeable material and clean. When the outside cover of the splint becomes soiled, they shall be thoroughly cleaned or replaced.~~
- ~~— B. Pneumatic trousers, if used, shall be clean and free from dust, dirt or other foreign matter.~~
- ~~— C. Commercial splints shall be free of dust, dirt or other foreign matter.~~
- ~~— D. Traction splints with commercial supports shall be clean and free from accumulated material.~~
- ~~— E. All splinting materials must be stored in such a manner as to promote and maintain cleanliness.~~
- ~~— F. All splints must be in functional working order with the recommended manufacturer's attachments.~~
- ~~— G. Manufacturer's recommendations on single-use equipment must be followed where indicated.~~

**Section 808. Stretchers and Spine Boards.**

- ~~— A. Pillows, mattresses and head immobilization devices (HIDs) shall be covered with a non-permeable material and in good repair. (Single-use items are exempt.)~~
- ~~— B. Stretchers, cots, pillows, HIDs and spine boards shall be clean and free from foreign material.~~
- ~~— C. Canvas or neoprene covers on portable type stretchers shall be in good repair.~~
- ~~— D. All restraint straps and/or devices shall be kept clean and shall be washed immediately if soiled.~~
- ~~— E. Spinal immobilization boards shall be manufactured from an appropriate material to facilitate cleaning.~~
- ~~— F. All spinal immobilization boards shall be free from rough edges or areas that may cause injury.~~

**Section 809. Bandages and Dressings. (H)**

- ~~— A. Bandages need not be sterile, but they must be clean. They shall be individually wrapped or stored in a closed container or cabinet to ensure cleanliness.~~
- ~~— B. Dressings must be sterile, individually packaged and sealed, and stored in a closed container or compartment. If the seal is broken or wrap is torn, the dressing is to be discarded.~~
- ~~— C. Dressings or burn sheets must be sterile and single-use only.~~
- ~~— D. Triangular bandages must be single-use disposable type.~~
- ~~— E. All bandages or dressings that have been exposed to moisture or otherwise have become soiled must be replaced.~~

**Section 810. Obstetrical (OB) Kits. (H)**

- ~~— A. All OB kits must be sterile and wrapped with cellophane or plastic. If the wrapper is torn or the kit is opened but not used, the items in the kit that are not individually wrapped must be resterilized or discarded and replaced.~~

~~— B. OB kits must be single use only.~~

~~— C. Items that have an expiration date in OB kits may be replaced individually if other items are individually sealed and sterile.~~

### **Section 811. Oropharyngeal Appliances. (H)**

~~Instruments inserted into a patient's mouth or nose that are single use only shall be individually wrapped and stored properly. All instruments inserted into a patient's mouth (such as laryngoscope blades) that are not intended for single use only must be cleaned and decontaminated following manufacturer's guidelines.~~

### **Section 812. Communicable Diseases. (H)**

~~— A. When an ambulance or transport vehicle has been contaminated in the transport of a patient known to have a blood borne or respiratory droplet borne pathogen, the vehicle must be taken out of service until cleaning and decontamination is completed.~~

~~— B. Linen must be removed from the cot and properly disposed of, or immediately placed in a plastic bag or container and sealed until properly cleaned.~~

~~— C. Patient contact areas, equipment and any surface soiled during the call, must be cleaned in accordance with Section 802.H of these guidelines.~~

### **Section 813. Miscellaneous Equipment.**

~~Miscellaneous equipment such as scissors, stethoscopes, blood pressure cuffs and/or other items used for direct patient care shall be cleansed as they become soiled. Items shall be kept clean and free from foreign matter.~~

### **Section 814. Equipment and Materials Storage Areas.**

~~Equipment not used in direct patient care shall be in storage spaces that prevent contamination or damage to direct patient care equipment or materials.~~

### **Section 815. Personnel.**

~~— A. All personnel functioning on the vehicle shall present themselves in a clean appearance at all times. This includes both the certified EMS attendants and the non-certified drivers if applicable.~~

~~— B. Hands and forearms shall be thoroughly washed according to Standard 1910.1030 set forth by the Occupational Safety and Health Administration (OSHA).~~

~~— C. Uniforms and clothing shall be clean or changed if they become soiled, contaminated, or exposed to vomitus, blood or other potentially infectious material (OPIM).~~

## **SECTION 900. EMERGENCY MEDICAL TECHNICIANS**

### **Section 901. General.**

~~— A. All ambulance attendants shall have a valid Emergency Medical Technician (EMT, EMT-I, AEMT, or Paramedic) certificate. No person shall provide patient care within the scope of an Emergency Medical Technician (EMT, EMT-I, AEMT, or Paramedic) without having proper South Carolina certification from the Department. (I)~~

~~— B. EMTs (EMT, EMT-I, AEMT, or Paramedic) shall only engage in those practices for which they have been trained and are within the scope of their Department-issued certification. Students currently enrolled in a Department-approved EMT, AEMT, or Paramedic program under the supervision of an appropriately credentialed preceptor may practice advanced skills for which they have been authorized in their respective training program. (I)~~

~~— C. EMTs (EMT, EMT-I, AEMT, or Paramedic) shall perform procedures under the supervision of a physician licensed in South Carolina. The means of supervision shall be direct, by standing orders or by electronic or voice communications. (I)~~

~~— D. All Department-certified EMTs (EMT, EMT-I, Special Purpose EMT, AEMT, or Paramedic) shall maintain an up-to-date profile in the South Carolina Credentialing Information System (CIS). (III)~~

~~— E. A pocket ID card shall be issued along with the South Carolina certificate. The original pocket card must be in the possession of the EMT (EMT, EMT-I, Special Purpose EMT, AEMT, or Paramedic) at all times that the EMT is on-duty or patient care is being rendered. (III)~~

~~— F. Except in cases of a disaster or catastrophe, when licensed services in the locality are insufficient to render the required services and/or mutual aid is requested, a South Carolina EMT certification (all levels) is limited in its scope of practice to South Carolina. (III)~~

### **Section 902. Initial EMT, AEMT, and Paramedic Certification. (I)**

~~— A. Any person seeking certification as an EMT, AEMT, or Paramedic shall complete the appropriate Department-approved training program, pass the National Registry of Emergency Medical Technicians (NREMT) examination for the level of certification desired, possess a current NREMT credential, and meet the requirements established by the Department as provided by S.C. Code Section 44-61-80(C).~~

~~— B. A person seeking certification as an EMT, AEMT, or Paramedic must undergo a state criminal history background check, supported by fingerprints by the South Carolina Law Enforcement Division (SLED), and a national criminal history background check, supported by fingerprints by the Federal Bureau of Investigation (FBI).~~

~~— 1. The results of these criminal history background checks are reported to the Department. SLED is authorized to retain the fingerprints for certification purposes and for notification to the Department regarding criminal charges.~~

~~— 2. The cost of the state criminal history background check is delineated in S.C. Code Section 44-61-80(D).~~

~~— 3. The state and national criminal history background checks are required for all EMTs when the EMT applies for certification or recertification. The results of these criminal history background checks are only valid for forty-five (45) days from the date the results are received by the Department from SLED and the FBI.~~

~~— 4. Applications for certification of individuals convicted of or under indictment for the following crimes shall be denied in all cases:~~

~~— a. Felonies involving criminal sexual conduct;~~

~~— b. Felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual conduct with a minor, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on a vulnerable adult; or~~

~~— c. Crimes against vulnerable populations (such as, but not limited to, children, patients, or residents of a healthcare facility) including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.~~

~~— C. Applications from individuals convicted of, or under indictment for, other offenses not listed above will be reviewed by the Department on a case by case basis.~~

~~— D. All Certifications are valid for a period not exceeding four (4) years from the date of issuance as provided in S.C. Code Section 44-61-80(E).~~

### **~~Section 903. Recertification of EMT, AEMT, and Paramedic Certification.~~**

~~— A. EMTs, AEMTs, and Paramedics shall recertify their Department issued certification by submitting the following to the Department a minimum of thirty (30) days prior to expiration of their certificate:~~

~~— 1. A properly completed and signed application for recertification;~~

~~— 2. Documentation of current NREMT credentials for the appropriate level of certification; and~~

~~— 3. Other credential(s) as required by the Department (state approved CPR credential and/or Advanced Cardiac Life Support (ACLS) credential).~~

~~— 4. An individual who was certified in this state before October 1, 2006, and has continuously maintained a South Carolina state EMT certification at any level without lapse, may continue to renew that certification without a NREMT credential.~~

~~— 5. An individual who has gained a NREMT credential on or after October 1, 2006, must maintain their NREMT credential to be certified, recertified, and maintain their South Carolina certification.~~

~~— B. EMTs, AEMTs, and Paramedics seeking recertification shall undergo a state and national criminal history background check as provided for in S.C. Code Section 44-61-80(D).~~

### **~~Section 904. Special Purpose EMT.~~**

~~— A. A person seeking a South Carolina Special Purpose EMT credential shall meet all requirements established by the Department.~~

~~— B. All South Carolina certified individuals shall maintain an up to date profile in the South Carolina Credentialing Information System (CIS).~~

~~— C. A person seeking a certification or recertification as a Special Purpose EMT must undergo a state criminal history background check as provided in S.C. Code Section 44-61-80(D).~~

~~—D. In order to be issued a valid Special Purpose EMT certificate, an individual must meet all of the following criteria:~~

~~—1. The Special Purpose EMT must be a South Carolina licensed registered nurse (RN) or a Nurse Licensure Compact (NLC) State RN who works in a critical care hospital setting such as neonatology, pediatrics, or cardiac care;~~

~~—2. The Special Purpose EMT must have completed an acceptable training program for delivery of the special area or possess experience in that special care area satisfactory to the Department;~~

~~—3. The Special Purpose EMT must be employed by the medical service which utilizes the special purpose ambulance and recommended by the director of the medical service which utilizes the special purpose ambulance;~~

~~—4. The medical service by which the Special Purpose EMT is employed must have operational procedures and medical protocols directing the daily operations of the Special Purpose EMT and special purpose ambulance. These medical protocols must be in written or electronic form, approved, and signed by the Medical Control Physician of the licensed EMS agency which operates the special purpose ambulance in order for the Special Purpose EMT to administer the special medical treatment required by these protocols;~~

~~—5. A South Carolina Special Purpose EMT certificate shall be in force no more than four (4) years;~~

~~—6. A pocket ID card shall be issued along with the South Carolina certificate. The original pocket card must be in the possession of that Special Purpose EMT individual all times that the person is on duty or patient care is being rendered; and~~

~~—7. Special Purpose EMTs shall only engage in those practices for which they have been trained and have been approved by the Department.~~

~~—E. Special purpose EMTs may be assisted by other healthcare professionals who are determined qualified and approved by the Department to assist in attendance of the patient during transportation in a special purpose ambulance.~~

### **Section 905. Reciprocity.**

~~—A. Candidates seeking reciprocity in South Carolina must hold either a NREMT credential or a current certification from another state for the level for which they are applying.~~

~~—B. Candidates seeking reciprocity as an EMT, AEMT, or Paramedic must undergo the required criminal history background check in accordance with S.C. Code Section 44-61-80(D). The results of these criminal history background checks are only valid for forty five (45) days from the date the results are received by the Department from SLED and FBI.~~

~~—C. Candidates not certified in South Carolina who hold a current and valid NREMT certification may apply for direct reciprocity at the level of the NREMT credential they hold by creating (and maintaining) an up-to-date profile in the South Carolina Credentialing Information System (CIS) and submitting the following:~~

~~—1. A properly completed and signed reciprocity application;~~

~~— 2. A copy of their current NREMT certification for the level of reciprocity for which they are making application; and~~

~~— 3. All other requirements as established by the Department.~~

~~— D. South Carolina EMT certificates for all levels of direct reciprocity shall expire four (4) years from the date the Department approves the candidate's application.~~

~~— E. A pocket ID card shall be issued along with the South Carolina certificate. The original pocket card must be in the possession of that individual at all times that the EMT is on duty or patient care is being rendered.~~

~~— F. EMT certifications (EMT, AEMT, and Paramedic) must maintain a NREMT credential to be certified, recertified, and maintain their current South Carolina certification.~~

~~— G. Candidates not certified in South Carolina who hold a current and valid EMT certification from other states may apply for a one (1) year provisional reciprocity at the level of the certification they hold by creating (and maintaining) an up-to-date profile in the South Carolina Credentialing Information System (CIS) and submitting the following:~~

~~— 1. A properly completed and signed reciprocity application;~~

~~— 2. A properly completed out-of-state certification verification form;~~

~~— 3. A copy of their current state certification pocket card for the level of provisional reciprocity for which they are making application. The pocket card must show their out-of-state certification expiration date. All provisional reciprocity candidates must have a minimum of six (6) months remaining on their out-of-state certification by the time the Department receives all required documentation necessary for certification. Exceptions will be granted on a case-by-case basis; and~~

~~— 4. All other requirements as established by the Department.~~

~~— H. South Carolina EMT certificates for all levels of provisional reciprocity will expire on the fifteenth (15th) of the month one (1) year from the date of issue. Provisional certifications are non-renewable and extensions are not permitted.~~

~~— I. A pocket ID card will be issued along with the South Carolina certificate. The original pocket card must be in the possession of that individual all times that patient care is being rendered.~~

~~— J. To convert a provisional certification to a regular South Carolina certification a reciprocity candidate must complete all requirements necessary to obtain a NREMT certification. All recertification requirements must meet all conditions stated in Section 903.~~

~~— K. EMT certifications (EMT, AEMT, and Paramedic) must maintain a current NREMT credential to be certified, recertified, and maintain their current South Carolina certification.~~

### **Section 906. Certification Examinations.**

~~— A. Any candidate desiring EMT certification in South Carolina must successfully pass the NREMT examinations and obtain a NREMT certification.~~

~~— B. The Department is responsible for the approval and location of all EMT psychomotor examination sites in South Carolina.~~

~~— C. In accordance with NREMT guidelines, the psychomotor portion of the NREMT examinations for the EMT may be delegated to the approved training institutions to be conducted as part of the EMT course or may be conducted as a separate psychomotor examination approved by the Department. This psychomotor examination must be monitored by either a NREMT testing representative or a Department representative. The ability of a training institution to conduct an NREMT psychomotor examination may be revoked at any time should the Department discover such examinations are not being held in accordance with NREMT guidelines.~~

~~— D. The AEMT and Paramedic psychomotor portion of the NREMT examination shall be conducted in accordance to the NREMT guidelines.~~

### **Section 907. Emergency Medical Technician Training Programs. (H)**

~~— A. These programs, which include initial and refresher EMT, AEMT, and Paramedic, are established by the Department and offered in approved technical colleges, other colleges and universities, vocational schools, and State Regional EMS training offices. The curricula for these training programs are the most current National EMS Education Standards (“Standards”) or any other curricula approved by the Department. Paramedic programs must be CAAHEP accredited or hold a CoAEMSP Letter of Review.~~

~~— 1. An application must be filed with the Department for a training institution to receive approval. No EMT, AEMT, or Paramedic training program may be conducted without approval by the Department.~~

~~— 2. All approved training institutions must designate one (1) person as the EMT program coordinator. This person shall be responsible to the Department for compliance with all applicable requirements pertaining to the training program.~~

~~— 3. Upon recommendation of the South Carolina EMS Training Committee and approval of the South Carolina EMS Advisory Council, a list of required equipment for the training programs will be maintained by the Department and updated as necessary.~~

~~— 4. Training institutions will be granted approval for no more than four (4) years at which time a re-approval may be granted to training institutions which have been compliant with all requirements and have actively conducted initial EMT training programs. An institution shall not conduct courses with expired institution credentials.~~

~~— 5. Department approved Training Centers in existence prior to the effective date of these regulations shall continue to provide EMT training in accordance with the provisions of this article.~~

~~— 6. All EMS training institutions must be granted approval by the Department prior to advertising or beginning any EMT course.~~

~~— 7. Any EMT course offered through an approved institution shall be an open course, with the exception of classes which are closed due to associated security concerns and/or requirements. Regardless of the location of the course, any candidate who satisfies the eligibility requirements shall be granted a seat in the course on a first come, first served basis until all seats have been filled.~~

~~— 8. EMT teaching institutions that instruct ALS shall retain a Medical Control Physician to provide medical oversight over their program.~~

~~— B. Continuing Education Program or CE (formerly In-Service Training (IST) Program) — This program is established by the Department and is granted to approved South Carolina licensed EMS agencies for the sole purpose of recertification of South Carolina credentialed EMTs on their roster.~~

~~— 1. EMS agencies seeking approval for a CE program must file an application with the Department.~~

~~— 2. Upon recommendation of the South Carolina EMS Training Committee and approval of the South Carolina EMS Advisory Council, a list of required equipment for the CE programs will be maintained by the Department and updated as necessary.~~

~~— 3. CE programs will be granted approval for no more than four (4) years at which time reapproval may be granted to IST programs which have been compliant with all requirements.~~

~~— 4. All CE programs must meet or exceed all requirements established by the NREMT for recertification.~~

~~— 5. No South Carolina licensed EMS provider may begin a CE program prior to receiving approval by the Department.~~

~~— 6. CE programs may verify skills for currently credentialed state and NREMT personnel on their CIS roster. Provisional credentialed EMTs must have their NREMT skills verified at a Department approved NREMT testing site.~~

~~— C. Continuing Education Units (CEUs) — The Department may approve additional CEUs on a case-by-case basis from medical schools, hospitals, simulation centers, Department credentialed teaching institutions, formal conventions, seminars, workshops, educational classes, and symposiums. All Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS) approved courses are accepted by the Department for CE credit in accordance with NREMT standards.~~

~~— 1. Requests for state approved CEUs are made through the Department and must be received by the Department in writing at least thirty (30) days prior to the scheduled event.~~

~~— 2. Requests for state approved CEUs must include the following:~~

~~— a. Date, times, and agenda of the event;~~

~~— b. Topics covered;~~

~~— c. List of speakers and their credentials; and~~

~~— d. Any additional information which may be requested by the Department.~~

~~— D. Pilot Programs — The Department may authorize providers to initiate pilot programs which provide training in new and innovative procedures that have potential for lifesaving care.~~

~~— 1. Under no circumstances shall pilot programs be initiated without prior approval by the Department.~~



~~— 2. Those who wish to initiate a pilot program must provide in writing to the Department a detailed proposal of the program and any supporting materials. Upon recommendation by the South Carolina Medical Control Committee and with approval by the South Carolina EMS Advisory Council, the Department may authorize the program.~~

~~— 3. The EMTs who participate in these programs are allowed to perform the pilot procedures, under Medical Control Physician oversight, during the period of the pilot program.~~

~~— 4. At the conclusion of the pilot program, a study must be submitted to the Department describing the outcome or results of the program. Research gained from the pilot programs may be used to revise and upgrade existing EMT programs and scope of practice.~~

~~— E. All training programs shall be taught by Department certified instructors. Instructors that meet all requirements and satisfactorily complete the Department's instructor orientation of the EMT Course Administration and Policy Guidelines shall be certified by the Department. Instructor certifications shall expire on the last day of the month in which their State EMT certification expires.~~

~~— F. To be certified as an EMT instructor, all new candidates must meet the following requirements:~~

~~— 1. Be twenty one (21) years of age or older;~~

~~— 2. Possess high school diploma or GED;~~

~~— 3. Possess a current State and NREMT Paramedic credential;~~

~~— 4. Successfully completed a forty (40) hour state, National Association of EMS Educators (NAEMSE), International Fire Service Accreditation Congress (IFSAC), ProBoard or Department of Defense (DOD) fire instructor, or South Carolina Criminal Justice Academy instructor methodology course;~~

~~— 5. Possess a current and valid CPR instructor credential;~~

~~— 6. Must submit a properly completed and signed instructor application; and~~

~~— 7. Meet all other requirements for their level of instructor certification as required by the Department.~~

~~— G. Instructor certificates may be renewed by submission of the following:~~

~~— 1. A properly completed and signed instructor recertification application;~~

~~— 2. A copy of a current South Carolina and NREMT Paramedic certification;~~

~~— 3. A copy of a current and valid CPR instructor credential;~~

~~— 4. Satisfaction of all teaching requirements as determined by the Department; and~~

~~— 5. Satisfaction of all other requirements as determined by the Department.~~

~~— H. An EMT Instructor authorization may be suspended or revoked for any of the following reasons:~~

~~— 1. Any act of misconduct as outlined in Section 1100;~~

- ~~— 2. Suspension or revocation of the holder’s South Carolina or NREMT certification;~~
- ~~— 3. Failure to maintain required credentials necessary for instructor designation;~~
- ~~— 4. Any act of proven sexual harassment toward another instructor or candidate;~~
- ~~— 5. Use of profane, obscene or vulgar language while in the presence of candidates or the EMT program coordinator during the context of class or related functions;~~
- ~~— 6. Conducting class without the minimum required equipment available and in working condition;~~
- ~~— 7. The use of any curricula not approved by the Department;~~
- ~~— 8. Gross or repeated violations of policy pertaining to the EMT training program;~~
- ~~— 9. Multiple instructor reprimands within a given period of time as established by the Department; or~~
- ~~— 10. Any other actions determined by the Department that compromises the integrity of the program. Those actions may include, but are not limited to the following:~~
  - ~~— a. Unprofessional behavior in the classroom;~~
  - ~~— b. Failure to notify the EMT program coordinator when classes must be cancelled or rescheduled;~~
  - ~~— c. Consistently starting class late or dismissing class early;~~
  - ~~— d. Conducting classes while under the influence of alcohol;~~
  - ~~— e. Conducting classes while under the influence of drugs that negatively impair the ability to instruct (prescribed, non-prescribed, or illegal);~~
  - ~~— f. Falsification of any documents pertaining to the course (such as attendance logs, equipment checklist); or~~
  - ~~— g. Repeated class results on the written and/or practical portion(s) of candidate examinations reflecting a class pass rate on the NREMT cognitive or psychomotor examinations of less than fifty percent (50%) (first time pass rate) for two (2) consecutive same level classes or two (2) classes of the same level in three (3) years.~~

**Section 908. Endorsement of Credentials.**

- ~~— A. The Department is tasked by S.C. Code Section 44-61-30(A) with developing standards and promulgating regulations for the improvement of emergency medical services.~~
- ~~— B. There are areas of specialized practice in EMS which require further education, training, and clinical experience to receive credentials in those specialized areas of care and practice. The Department has an obligation to the public to recognize, endorse, and regulate these specialized practices to ensure a uniform scope of practice across the state.~~
- ~~— C. The Department shall establish minimum educational and clinical guidelines for these endorsed credentials beyond a Paramedic certification.~~

~~—D. The Department endorsed credential shall include, but is not limited to, the following areas of specialized training:~~

~~—1. Community Paramedic;~~

~~—2. Critical Care Paramedic; and~~

~~—3. Tactical Paramedic.~~

~~—E. Endorsement of South Carolina credentials shall only be granted by the Department to Paramedics that are currently certified by the Department and hold an unencumbered current South Carolina certification. If a Paramedic's South Carolina certification is expired, suspended, or revoked by the Department, the endorsement follows the same status as their certification.~~

~~—F. The specially endorsed South Carolina Paramedics shall only practice their skills within the scope of practice of their Department approved agency, under a South Carolina licensed Medical Control Physician. Specially endorsed Paramedics are not independent healthcare practitioners.~~

~~—G. The specially endorsed South Carolina Paramedics shall require additional specialty continuing education as determined by the Department.~~

~~—H. The types of care rendered by the specially endorsed Paramedics shall include, but are not limited to, critical care interfacility services, prehospital services, preventative care, social service referrals, chronic care support, follow-up care and maintenance, and tactical medical support of law enforcement.~~

~~—I. Licensed agencies using these specialized services shall have specific protocols by their Medical Control Physician and approved by the Department.~~

### **Section 909. Certification Patches.**

~~—A. An individual initially certified in South Carolina at any level shall receive a complimentary patch for the level which he or she received his or her certification.~~

~~—B. Additional patches may be purchased for individuals for services which meet the following criteria:~~

~~—1. The individual holds a current South Carolina certification; or~~

~~—2. The individual is an EMS agency director, logistics officer, or training officer and is purchasing patches in bulk for his or her service.~~

### **SECTION 1000. PERSONNEL REQUIREMENTS (I)**

~~—A. During the transportation of patients, there shall be an EMT, EMT I, AEMT or Paramedic in the patient compartment at all times. The crew member with the highest level of certification shall determine which crew member will attend the patient during transport. If advanced life support procedures are in use, the responsible EMT I, AEMT or Paramedic shall attend the patient in the patient compartment during transport.~~

~~— B. Exception: Transferring or receiving medical facilities' registered nurses and physicians are authorized as ground ambulance attendants when assisting EMTs in the performance of their duties when all of the following requirements are met:~~

~~— 1. The required medical care of the patient is beyond the scope of practice for the certification level of the EMT.~~

~~— 2. When the ambulance transport is between medical facilities or from medical facility to the patient's residence.~~

~~— 3. When the responsible physician, transferring or receiving, assumes responsibility of the patient and provides appropriate orders, written preferred, to the registered nurse for patient care.~~

~~— 4. The registered nurse is on duty with the appropriate medical facility during the ambulance transport.~~

~~— C. No person under the age of eighteen (18) shall operate any emergency vehicle owned or operated by the licensed provider.~~

~~— D. No person shall act or serve in the capacity of attending a patient while under felony indictment or with certain past felony convictions as listed in Section 902.B.4.~~

~~— E. All licensed providers must notify the Department immediately should they become aware of a felony indictment or conviction of any person on their roster.~~

#### ~~SECTION 1100. REVOCATION OR SUSPENSION OF CERTIFICATES OF EMERGENCY MEDICAL TECHNICIANS (1)~~

~~— A. The Department shall, upon receiving a complaint of misconduct as herein defined, initiate an investigation to determine whether or not suitable cause exists to take action against the holder of an emergency medical technician certificate.~~

~~— 1. The initial complaint shall be in the form of a brief statement, dated and signed by the person making the complaint, which shall identify the person or service that is the subject of the complaint and contain a summary as to the nature of the complaint. The Department is also authorized to initiate an investigation based upon information acquired from other sources.~~

~~— 2. Information received by the Department through inspection, complaint or otherwise authorized under S.C. Code Sections 44-61-10 et seq. shall not be disclosed publicly except in a proceeding involving the question of licensing, certification or revocation of a license or certificate.~~

~~— B. "Misconduct" constituting grounds for a revocation or suspension or other restriction of a certificate means while holding a certificate, the holder:~~

~~— 1. Used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with any of the certification requirements or official documents required by the Department;~~

~~— 2. Was convicted of a felony or another crime involving moral turpitude, drugs, or gross immorality;~~

~~— 3. Was addicted to alcohol or drugs to such a degree as to render the holder unfit to perform as an EMT;~~

- ~~— 4. Sustained a physical or mental disability that renders further practice by him dangerous to the public;~~
- ~~— 5. Obtained fees or assisted in the obtaining of such fees under dishonorable, false or fraudulent circumstances;~~
- ~~— 6. Disregarded an appropriate order by a physician concerning emergency treatment and transportation;~~
- ~~— 7. At the scene of an accident or illness, refused to administer emergency care on the grounds of age, sex, race, religion, creed or national origin of the patient;~~
- ~~— 8. After initiating care of a patient at the scene of an accident or illness, discontinued such care or abandoned the patient without the patient's consent or without providing for the further administration of care by an equal or higher medical authority;~~
- ~~— 9. Revealed confidences entrusted to him in the course of medical attendance, unless such revelation is required by law or is necessary in order to protect the welfare of the individual or the community;~~
- ~~— 10. By action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his care;~~
- ~~— 11. Was careless, or reckless, or irresponsible in the operation of an emergency vehicle;~~
- ~~— 12. Performed skills above the level for which he was certified or performed skills that he was not trained to do;~~
- ~~— 13. Observed the administration of sub-standard care by another EMT or other medical provider without documenting the event and notifying a supervisor;~~
- ~~— 14. By his actions, or inactions created a substantial possibility that death or serious physical harm could result;~~
- ~~— 15. Did not take or complete remedial training or other courses of action as directed by the Department;~~
- ~~— 16. Was found guilty of the falsification of any documentation as required by the Department;~~
- ~~— 17. Breached a section of the Emergency Medical Services Act of South Carolina or a subsequent amendment of the Act or any rules or regulations published pursuant to the Act.~~
- ~~— 18. Failed to provide a patient emergency medical treatment of a quality deemed acceptable by the Department.~~
- ~~— C. The Department may take enforcement action, including suspending or revoking certifications or assessing a monetary penalty against the holder of a certificate at any time it is determined that the holder no longer meets the prescribed qualifications for being a certified EMT as provided in this regulation and the EMS Act.~~
- ~~— D. The suspension or revocation of the emergency medical technician certificate shall include all levels of certification.~~

~~— E. Any adverse action or event related to credentialed personnel shall be reported as required to the National Practitioner Data Bank, in accordance with federal law.~~

## SECTION 1200. AIR AMBULANCES

### **Section 1201. Licensing. (1)**

~~— It shall be unlawful for any ambulance service provider, agent or broker to secure or arrange for air ambulance service originating in the State of South Carolina unless such ambulance service meets the provisions of South Carolina Emergency Medical Services Act and regulations.~~

~~— A. Air Ambulance Licensing and Insurance Requirements:~~

~~— 1. Air ambulance licensing procedures must meet the requirements in Section 400. Air ambulance permit procedures are contained in Section 500. A Department issued permit is required for each aircraft;~~

~~— 2. As part of the licensing procedure, every air ambulance operator shall carry an air ambulance insurance policy. The coverage amounts shall ensure that;~~

~~— a. Each aircraft shall be insured for the minimum amount of one million dollars (\$1,000,000) for injuries to, or death of, any one (1) person arising out of any one (1) incident or accident;~~

~~— b. The minimum amount of three million dollars (\$3,000,000) for injuries to, or death of, more than one (1) person in any one (1) accident;~~

~~— c. The minimum amount of five hundred thousand dollars (\$500,000) for damage to property from any one (1) accident;~~

~~— d. Submit proof that the provider carries professional liability coverage in the minimum amount of five hundred thousand dollars (\$500,000) per occurrence, with a company license to do business in the aircraft's home assigned state; and~~

~~— e. All listed insurance shall provide a thirty (30) day cancellation notice to the Department. In accordance with Section 303, an agency is subject to enforcement action including but not limited to revocation or fines for laps of coverage for any period of time. A schedule of fines is listed in Section 1501.~~

~~— 3. Submit a copy of current FAA operational certificate and include designation for air ambulance operations, Administration Air Taxi and Commercial Operator Certification, ACTO;~~

~~— 4. Submit a letter of agreement that all aircraft shall meet the specifications of all applicable subsections of Section 501, if the aircraft is leased from a pool;~~

~~— 5. Proof that the Medical Control Physician meets the qualifications of Section 402;~~

~~— 6. The operator or firm must conform to all Federal Aviation Regulations (FARs), which are rules prescribed by the Federal Aviation Administration (FAA) Part 135; and~~

~~— 7. Each aircraft must be inspected and issued a permit by the Department prior to use.~~

~~— B. Out of State Air Ambulances.~~

~~— 1. Out of state air ambulances transporting patients from locations originating in South Carolina must obtain a license in South Carolina prior to engaging in operations and must have a current and valid license in their home state, if applicable, except where exempt pursuant S.C. Code Section 44-61-100(D).~~

~~— 2. Out of state air ambulances operating in a state where no license is available must obtain a license in South Carolina and meet all requirements in Section 1200.~~

~~— 3. Out of state air ambulances transporting patients initiating in South Carolina must have the patient care report submitted into the South Carolina PreMIS system within seventy two (72) hours of completing the transport.~~

~~— C. Air Ambulance Categories:~~

~~— 1. Prehospital Transport Air Ambulance. Air ambulance services that transport patients in the prehospital setting will be permitted as either an advanced or basic life support service. In addition each prehospital service shall be required to meet the requirements and be licensed accordingly. Each such service shall contract with a Medical Control Physician.~~

~~— 2. Special Purpose Air Ambulance. The interfacility transportation of a critically injured or ill patient by an air ambulance (fixed wing or rotary wing aircraft) that includes the provision of medically necessary supplies and services, at a level of service beyond the normal scope of practice of a Paramedic. The Special Purpose air unit is necessary when a patient's condition requires ongoing care that must be furnished by one (1) or more healthcare professionals in an appropriate specialty area (such as neonate, critical care nursing, respiratory care, cardiovascular care), or a Paramedic with additional training approved by the Department. It is the responsibility of the provider's Medical Control Physician to ensure that the level of patient care required in any given transport is adequate for that patient's medical needs.~~

~~— D. Air Ambulance Aircraft Requirements. The aircraft operator shall, in all operations, comply with all federal aviation regulations which are adopted by reference, FAA Part 135. The aircraft shall meet the following specifications:~~

~~— 1. Be configured in such a way that the medical attendants have adequate access for the provision of patient care within the cabin to give cardiopulmonary resuscitation and maintain patient's life support;~~

~~— a. The aircraft or ambulance must have an entry that allows loading and unloading without excessive maneuvering (no more than forty five (45) degrees about the lateral axis and thirty (30) degrees about the longitudinal axis) of the patient.~~

~~— b. The configuration does not compromise functioning of monitoring systems, intravenous lines, and manual or mechanical ventilation.~~

~~— 2. A minimum of one (1) stretcher or cot must be provided that can be carried to the patient and allow loading of a supine patient by two (2) attendants;~~

~~— a. The maximum gross weight allowed on the stretcher or cot (inclusive of patient and equipment) as consistent with manufacturer's guidelines.~~

~~— b. Aircraft stretchers, cots, and the means of securing it in flight must be consistent with national aviation regulations.~~

- ~~—— c. The stretcher or cot must be sturdy and rigid enough that it can support cardiopulmonary resuscitation.~~
- ~~—— d. The head of the cot is capable of being elevated at least thirty (30) degrees for patient care and comfort.~~
- ~~—— e. The patient placement must allow for safe medical personnel egress.~~
- ~~—— 3. Have appropriate communication equipment to ensure both internal crew and air to ground exchange of information between individuals and agencies appropriate to the mission, including at least medical control, air traffic control, emergency services (EMS, law enforcement agencies, and fire), and navigational aids;~~
- ~~—— 4. Be equipped with radio headsets that ensure internal crew communications and transmission to appropriate agencies;~~
- ~~—— 5. Pilot is able to control and override radio transmissions from the cockpit in the event of an emergency situation;~~
- ~~—— 6. Lighting. Supplemental lighting system shall be installed in the aircraft or ambulance in which standard lighting is insufficient for patient care;~~
  - ~~—— a. A self-contained lighting system powered by a battery pack or a portable light with a battery source must be available.~~
  - ~~—— b. There must be adequate lighting for patient care. Use of red lighting or low intensity lighting in the patient care area is acceptable if not able to isolate the patient care area from effects on the cockpit or on a pilot.~~
  - ~~—— c. For those flights meeting the definition of “long range,” additional policies must be in place to address how adequate cabin lighting will be provided during fueling and/or technical stops to ensure proper patient assessment can be performed and adequate patient care provided.~~
- ~~—— 7. Have hooks and/or appropriate devices for hanging intravenous fluid bags;~~
- ~~—— 8. Helicopters must have an external landing light and tail rotor position light;~~
- ~~—— 9. Design must not compromise patient stability in loading, unloading, or in-flight operations;~~
- ~~—— 10. Temperature; and~~
  - ~~—— a. The interior of the aircraft must be climate controlled to avoid adverse effects on patients and personnel on board.~~
  - ~~—— b. Thermometer is to be mounted inside the cabin.~~
  - ~~—— c. Cabin temperatures must be measured and documented every fifteen (15) minutes during a patient transport until temperatures are maintained within the range of fifty to ninety five (50 to 95) degrees Fahrenheit (ten to thirty five (10 to 35) degrees Celsius) for aircraft.~~



~~— 11. Electric power outlet. Must be provided with an inverter or appropriate power source of sufficient output to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical aircraft or ambulance equipment. Extra batteries are required for critical patient care equipment.~~

~~— E. Aircraft Flight Crew Manning Requirements. The aircraft operator shall, in all operations, comply with all federal aviation regulations which are adopted by reference, FAA Part 135.~~

~~— 1. Rotorcraft Pilot:~~

~~— a. The pilot must possess at least a commercial rotorcraft helicopter and instrument helicopter rating 05.07.02.~~

~~— b. The pilot in command must possess two thousand (2000) total flight hours (or total flight hours of at least fifteen hundred (1500) hours and recent experience that exceeds the operator's pre hire qualifications such as current air medical and/or search and rescue experience or Airline Transport Pilot, ATP, rated) prior to an assignment with a medical service with the following stipulations:~~

~~— i. A minimum of twelve hundred (1200) helicopter flight hours;~~

~~— ii. At least one thousand (1000) of those hours must be as Pilot in Charge (PIC) in rotorcraft;~~

~~— iii. One hundred (100) hours unaided (if pilot is not assigned to a Night Vision Goggles (NVG) base or aircraft);~~

~~— iv. One hundred (100) hours unaided or fifty (50) hours unaided as long as the pilot has one hundred (100) hours aided (if assigned to an NVG base or aircraft); and~~

~~— v. A minimum of five hundred (500) hours of turbine time.~~

~~— c. The pilot must be readily available within a defined call up time to ensure an expeditious and timely response.~~

~~— 2. Rotorcraft mechanic:~~

~~— a. The helicopter mechanic is vital to mission readiness and, as such, shall possess at least two (2) years of experience and must be a certified air frame and power plant mechanic.~~

~~— b. The mechanic must be properly trained and FAA certified to maintain the aircraft designed by the flight service for its aeromedical program.~~

~~— 3. Fixed Wing Pilot:~~

~~— a. A fixed wing pilot must possess two thousand (2000) airplane flight hours prior to assignment with a medical service with the following stipulations:~~

~~— i. At least one thousand (1000) of those hours must be as Pilot in Charge (PIC) in an airplane;~~

~~— ii. At least five hundred (500) of those hours must be multi-engine airplane time as PIC. (Not required of single engine turbine aircraft);~~

~~iii. At least one hundred (100) of those hours must be night flight time as PIC; and~~

~~iv. Both pilots in a two pilot aircraft must be ATP rated.~~

~~b. In aircraft that require two (2) pilots, both pilots must be type rated for that make and model, and both pilots must hold first class medical certificates if the certificate holder operates internationally. Both pilots must have training on Crew Resource Management (CRM), or Multi-pilot Crew Coordination (MCC).~~

~~4. Fixed Wing Mechanic:~~

~~a. The mechanic is vital to mission readiness and must be a certified air frame and power plant mechanic.~~

~~b. The mechanic must be properly trained and FAA certified to maintain the aircraft designated by the flight service for its aeromedical program.~~

~~c. The mechanic must obtain and maintain a current Airframe and Powerplant (A&P) certificate.~~

~~F. Off Line Medical Control Physician (Medical Director). The off line Medical Control Physician of air ambulance services shall be responsible for:~~

~~1. Being knowledgeable of the capabilities and limitations of the aircraft used by his service;~~

~~2. Being knowledgeable of the medical staff's capability relative to the patient's needs;~~

~~3. Being knowledgeable of the routine and special medical equipment available to the service;~~

~~4. Ensuring that each patient is evaluated prior to a flight for the purpose of determining that appropriate aircraft, flight and medical crew and equipment are provided to meet the patient's needs;~~

~~5. Ensuring that all medical crew members are adequately trained to perform in flight duties prior to functioning in an in-flight capacity; and~~

~~6. Must meet all requirements, duties and responsibilities listed in Section 402.~~

~~G. Aircraft Medical Crew Requirements:~~

~~1. Each basic life support air ambulance must be staffed with at least one (1) currently certified South Carolina EMT.~~

~~2. Each advanced life support air ambulance must be staffed with at least one (1) currently certified South Carolina Paramedic or South Carolina flight nurse as may be required by the patient's condition.~~

~~3. Each special purpose air ambulance must be staffed with at least one (1) Special Purpose EMT, Paramedic or RN with specialty training, as approved by the Department.~~

~~4. Each crew member must wear a flame retardant uniform with reflective striping.~~

~~5. Each crew member must display a legible photo identification with first name and certification level (for example, pilot, RN, or other) while patient care is anticipated to be rendered.~~

~~— H. Orientation Program:~~

~~— 1. All medical flight crew members must complete a base level flight orientation program approved by the Department and supervised by the service's Medical Control Physician.~~

~~— 2. The flight orientation program shall be of sufficient duration and substance to cover all patient care procedures, including altitude physiology, and flight crew requirements.~~

~~**Section 1202. Medical Supplies and Equipment. (H)**~~

~~— A. Local Medical Control Option (MCO) items are required equipment, unless the Medical Control Physician declines to carry suggested equipment. The MCO items must be stated in writing (such as incorporated into SOPs or Standing Orders) and submitted to the Department within ten (10) days of change.~~

~~— B. Delivering Oxygen. Oxygen shall be installed according to national aviation regulations (FAA Part 135.91). Medical transport personnel can determine how oxygen is functioning by pressure gauges mounted in the patient care area.~~

~~— 1. Each gas outlet shall be clearly identified.~~

~~— 2. "No Smoking" sign shall be included.~~

~~— 3. Oxygen flow must be stoppable at or near the oxygen source from inside the aircraft or ambulance.~~

~~— 4. The following indicators shall be accessible to medical transport personnel while en route:~~

~~— a. Quantity of oxygen remaining; and~~

~~— b. Measurement of liter flow.~~

~~— 5. Adequate amounts of oxygen for anticipated liter flow and length of transport with an emergency reserve must be available for every mission.~~

~~— 6. When the vehicle is in motion, all oxygen cylinders shall be affixed to a wall or floor with crash stable, quick release fittings.~~

~~— C. Sanitation. The floor, sides, ceiling and equipment in the patient cabin of the aircraft or ambulance must be a nonporous surface capable of being cleaned and disinfected by the standards listed in Section 800.~~

~~— D. Basic Life Support (BLS) Equipment. BLS Air Ambulances shall have all the following equipment on board:~~

~~— 1. Automatic External Defibrillator (AED);~~

~~— a. An AED shall be secured and positioned for easy access to the medical attendant(s).~~

~~— b. Adult and Pediatric paddles, pads, and cables shall be available.~~

~~— 2. Suction Device. A portable suction device, age and weight appropriate, with wide bore tubing and at least a six (6) ounce reservoir;~~

~~—— a. Wide bore, rigid pharyngeal curved suction tip: Minimum, two (2) each.~~

~~—— b. Sterile, single use, flexible suction catheter between 6 Fr– 16 Fr: Minimum, two (2):~~

~~—— i. One (1) must be between 6 Fr–10 Fr.~~

~~—— ii. One (1) must be between 12 Fr– 16 Fr.~~

~~— 3. Airway Equipment;~~

~~—— a. Nasal Cannulas (NC): Adult and pediatric with adequate length tubing, two (2) each.~~

~~—— b. Non Rebreather Mask (NRB): Adult and pediatric with adequate length tubing, two (2) each.~~

~~—— c. Nasopharyngeal airways (NPAs): 16 Fr–34 Fr adult and child sizes, one (1) each. All airways shall be stored in a manner to maintain cleanliness.~~

~~—— d. Nonmetallic oropharyngeal airways (OPAs): sizes 0–5, one (1) each. All airways shall be stored in a manner to maintain cleanliness.~~

~~—— e. Bag Valve Ventilation Units (BVMs):~~

~~—— i. One (1) adult, hand operated. Valves must operate in all weather, and unit must be equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the patient.~~

~~—— ii. One (1) child, hand operated. Valves must operate in all weather and unit must be equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the patient. The BVM must include safety pop-off mechanism with override capability.~~

~~—— iii. One (1) infant, hand operated. Valves must operate in all weather and unit must be equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the patient. The BVM must include safety pop-off mechanism with override capability.~~

~~—— iv. In conjunction with the ventilation units above, 0, 1, 2, 3, 4, 5 masks will be carried (either the disposable or non-disposable types, local MCO).~~

~~—— f. Adult and Pediatric Magill forceps, one (1) each (local MCO).~~

~~—— g. Blind Insertion Airway Device (BIAD): meet all age and weight size categories as defined by Food and Drug Administration (FDA). Syringe(s) needed to inflate bulbs shall be included in packaging, if not appropriate size(s) must be carried by provider (local MCO).~~

~~— 4. Bandage Material;~~

~~—— a. ABD pad five (5) inches by nine (9) inches, or larger, two (2) minimum.~~

~~—— b. Individually wrapped, sterile four (4) inches by four (4) inches gauze pad, fifteen (15) minimum.~~

~~—— c. Gauze bandage rolls individually wrapped and sterile in three (3) varieties of sizes (for example, 4.5 inches × 4.1 yards, 3.4 inches × 3.6 yards), one (1) each.~~

~~—— d. Commercial sterile occlusive dressing, minimum size four (4) inches by four (4) inches, two (2) each.~~

~~—— e. Adhesive tape, hypoallergenic, one (1), two (2), and three (3) inches wide, one (1) each.~~

~~—— f. Sterile burn sheet, one (1) each (local MCO).~~

~~—— g. Triangular bandages, minimum two (2) each (local MCO).~~

~~—— h. Large trauma bandage shears, one (1) each.~~

~~—— i. Minimum of 250 mL of sterile water or normal saline for irrigation.~~

~~—— 5. Splints;~~

~~—— a. Traction type, lower extremity splint. Uni-polar or bi-polar type is acceptable (local MCO).~~

~~—— b. Padded, wooden type splints, two (2) each, fifteen (15) inches by three (3) inches and thirty six (36) inches by three (3) inches, or other approved commercially available splints for arm or leg fractures (local MCO).~~

~~—— 6. Spine Boards;~~

~~—— a. One (1) Long Spine Board (at least sixteen (16) inches by seventy two (72) inches). The use of folding backboards is acceptable as a substitute for the long spine board (local MCO).~~

~~—— b. Cervical collars for adult and pediatric adjustable or available in sizes of short, regular, or tall; minimum one (1) each. Each cervical collar shall be manufactured with rigid or semi rigid material (local MCO).~~

~~—— c. Adult and Pediatric head immobilization device, commercially or premade: One (1) each (local MCO).~~

~~—— d. Nine (9) foot straps, minimum three (3) each, or one set of 10 point spider straps (local MCO).~~

~~—— 7. Obstetrical kit: The kit shall be sterile, latex free and contain the following: gloves, seissors or surgical blades, umbilical cord clamps or tapes, dressing, towels, perinatal pad, bulb syringe and a receiving blanket for delivery of infant (local MCO);~~

~~—— 8. Assessment tools; and~~

~~—— a. Adult and Pediatric blood pressure sphygmomanometer, cuff, bladder, and tubing must be clean and in good repair.~~

~~—— b. Stethoscope with membrane(s) and tubing in good repair.~~

~~—— c. Adult and Pediatric pulse oximeter with numeric reading.~~

- ~~—— d. Glucometer or blood glucose measuring device (local MCO).~~
- ~~—— 9. Miscellaneous Equipment:~~
  - ~~—— a. Eye protection or face shield, one (1) for each medical crew member (local MCO).~~
  - ~~—— b. Non-sterile, latex free exam gloves in two (2) variations of size, labeled; minimum of five (5) pairs each.~~
  - ~~—— c. Waterless hand cleanser, commercial antimicrobial.~~
  - ~~—— d. EPA recommended germicidal/viracidal agent or a sodium hypochlorite solution of ninety-nine (99) parts water and one (1) part bleach used for cleaning equipment.~~
  - ~~—— e. A clearly marked sharps container (may be fixed or portable) with locking mechanism.~~
  - ~~—— f. Emesis basin, one (1) (local MCO).~~
  - ~~—— g. Bedpan and urinal, one (1) each (local MCO).~~
  - ~~—— h. Two (2) dependable flashlights or electric lanterns.~~
  - ~~—— i. One (1) fire extinguisher approved for aircraft use. Each shall be fully charged with valid inspection certification and capable of extinguishing type A, B, or C fires. At least one (1) hand fire extinguisher must be provided and conveniently located on the flight deck for use by the flight crew.~~
  - ~~—— j. Additional equipment. Equipment not found in this regulation is subject to inspection and must be stored and operate to the manufacturer's recommendations. If any fault is found, the equipment must be immediately removed for repair and/or replacement.~~
- ~~— E. Advanced Life Support (ALS) Equipment. Air ambulances providing ALS in the Prehospital or Special Purpose category must have all the following equipment and supplies on board in addition to Section 1202.D:~~
  - ~~—— 1. Cardiac monitor;~~
    - ~~—— a. Must be secured and positioned so that displays are visible to the medical attendant(s) and;~~
    - ~~—— b. Must have printable four (4) lead waveform, twelve (12) lead/EKG, SpO2 waveform with numeric reading, and invasive pressure monitor port(s) for adult and pediatric (including neonate, if applicable) and;~~
    - ~~—— c. One (1) extra roll of printer paper;~~
    - ~~—— d. Have an internal rechargeable battery pack(s);~~
    - ~~—— e. Extra battery or AC adapter and cord available;~~
    - ~~—— f. Defibrillator, which may be integrated into cardiac monitor modular to include:~~
      - ~~—— i. Adult and Pediatric paddles and pads are available; and~~

~~ii. Appropriate size pads and settings must be available for neonatal transports (if neonatal transports are conducted); and~~

~~g. Adult and Pediatric capabilities to Transcutaneous Pace. Either stand alone unit or integrated in to cardiac monitor modular.~~

~~2. Advanced airway and ventilatory support equipment;~~

~~a. One (1) laryngoscope handle with extra set of batteries and bulbs, if applicable.~~

~~b. Laryngoscope blades, adult, child, and infant sizes.~~

~~i. 0 4 Miller.~~

~~ii. 1 4 Macintosh.~~

~~c. One (1) each disposable endotracheal tubes sizes as well as intubation stylettes sized for each tube.~~

~~i. 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, 5.5 mm cuffed or uncuffed.~~

~~ii. 6.0, 6.5, 7.0, 7.5, 8.0 mm.~~

~~iii. Other sizes (local MCO).~~

~~d. Water soluble lubricating jelly, four (4) each.~~

~~e. Adult and Pediatric Magill forceps, one (1) each.~~

~~f. Blind Insertion Airway Device (BIAD) that meet all age and weight size categories as defined by FDA. Syringe(s) needed to inflate bulbs shall be included in packaging, if not appropriate size(s) must be carried by provider.~~

~~g. Age appropriate Positive End Expiratory Pressure (PEEP) valve (may be incorporated into BVMs).~~

~~h. A mechanical ventilator and circuit appropriate to age/weight, including neonate (if applicable) which must include measurement of:~~

~~i. Fraction of inspired oxygen (FiO<sub>2</sub>);~~

~~ii. Tidal volume (V<sub>t</sub>);~~

~~iii. Respiratory rate (RR) or frequency; and~~

~~iv. Positive End Expiratory Pressure (PEEP).~~

~~i. Continuous Positive Airway Pressure (CPAP), able to be incorporated within the mechanical ventilator; appropriate settings and attachments (such as face masks) for adults and pediatric patients, and neonate patients (if applicable).~~

~~— j. Bi level Positive Airway Pressure (BiPAP), which may be incorporated within the mechanical ventilator; appropriate settings and attachments for adults and pediatric; neonate (if applicable).~~

~~— k. Printable waveform End tidal CO2 continuous monitoring capabilities, which may be incorporated within cardiac monitor modular.~~

~~— 3. Venous Access;~~

~~— a. Intravenous catheters 14g-20g, two (2) of each.~~

~~— i. 22g-24g, two (2) each required if pediatric or neonate transports are conducted.~~

~~— b. Intraosseous needles.~~

~~— i. Adult and Pediatric needles.~~

~~— ii. Neonate size required if applicable.~~

~~— c. Minimum of two (2) macro drip sets, 10-20gtts/mL.~~

~~— d. Minimum of two (2) independent multi-channel infusion pump that allows fluid and medications to be administered at different rates, sequentially. IV pump, at minimum, must:~~

~~— i. Have an internal rechargeable battery pack;~~

~~— ii. Have a AC adapter and cord; and~~

~~— iii. Display the infusion rate, volume infused, and volume remaining.~~

~~— e. Two (2) sets of IV pump tubing.~~

~~— f. 18g-25g needles at least one and one half inch length, minimum of four (4):~~

~~— i. Two (2) must be 18g-20g.~~

~~— ii. Two (2) must be 23g-25g.~~

~~— g. Syringes.~~

~~— i. 1mL, two (2) each.~~

~~— ii. 3-5mL, two (2) each.~~

~~— iii. 10-20mL, four (4) each.~~

~~— h. Minimum of three (3) IV start kits containing:~~

~~— i. Latex free tourniquet.~~

~~— ii. Antiseptic solution.~~



- ~~\_\_\_\_\_ iii. Latex free IV catheter dressing.~~
- ~~\_\_\_\_\_ iv. Intravenous arm boards for pediatric patients, two (2) each (local MCO).~~
- ~~\_\_\_\_\_ 4. Intravenous Fluids;~~
  - ~~\_\_\_\_\_ a. A total of 2000mL of intravenous fluids onboard, may be a combination of:~~
    - ~~\_\_\_\_\_ i. Sizes (such as 100mL-1000mL).~~
    - ~~\_\_\_\_\_ ii. Variety (such as Lactated Ringers, Normal Saline, D5W).~~
    - ~~\_\_\_\_\_ iii. Must have the capability to administer warm fluids.~~
- ~~\_\_\_\_\_ 5. Miscellaneous Equipment; and~~
  - ~~\_\_\_\_\_ a. A current color coded Pediatric weight and length based drug dose chart.~~
  - ~~\_\_\_\_\_ b. Alcohol or iodine prep pads for preparing IM injections, minimum six (6).~~
- ~~\_\_\_\_\_ 6. Additional equipment: equipment not found in this regulation is subject to inspection and must be stored and operate to the manufacture recommendations. If any fault is found, the equipment must be immediately removed for repair and/or replacement.~~

**~~Section 1203. Special Purpose Air Ambulances. (H)~~**

~~All special purpose air ambulances must be equipped with at least the following items from Section 1202: A, B, C, D, and E.~~

**~~Section 1204. Medication and Fluids for Advanced Life Support Air Ambulances. (H)~~**

~~Such medications and fluids approved by the Board for possession and administration by EMTs, and specified by the Medical Control Physician, will be carried on the air ambulance. Medications not included on the approved medication list for Paramedics may be carried on board the air ambulance so long as there is a written protocol which is signed and dated by the Medical Control Physician, for the use of the medications, fluid, or blood product and delineates administration only by a registered nurse or physician.~~

- ~~— A. Medications must be easily accessible.~~
- ~~— B. Controlled substances are in a double locked system and kept in a manner consistent with state and federal Drug Enforcement Agency (DEA) regulations.~~
- ~~— C. Storage of medications allows for protection from extreme temperature changes within the U.S. Pharmacopeia guidelines as listed in Section 601.I.5, if environment deems it necessary.~~
- ~~— D. If there is a refrigerator on the vehicle for medications, a temperature monitoring and tracking policy is required, and the refrigerator is used and labeled “for medication use only.”~~

**~~Section 1205. Rescue Exception. (H)~~**

~~An aircraft without a permit may be used for occasional non-routine missions, such as the rescue and transportation of victim/patients, who may or may not be ill or injured, from structures, depressions, water, cliffs, swamps or isolated scenes, when in the opinion of the rescuers or EMS provider present at the scene, such is the preferred method of rescue and transportation incident thereto due to the nature of the entrapment, condition of the victim, existence of an immediate life-threatening condition, roughness of terrain, time element and other pertinent factors:~~

~~—A. Provided that after the initial rescue, an EMT or higher level EMS technician accompanies the victim-patient en route with the necessary and appropriate EMS supplies needed for the en route care of the specific injuries or illness involved.~~

~~—B. Provided the aircraft is of adequate size and configuration to effectively make the rescue and to accommodate the victim patient, attendant(s) and equipment.~~

~~—C. Provided reasonable space is available inside the aircraft for continued victim patient comfort and care.~~

~~—D. Provided a permitted aircraft is not available within a reasonable distance response time; and~~

~~—E. Provided the victim patient is transferred to a higher level of EMS ground transportation for stabilization and transport if such ground unit is available at a reasonably safe landing area.~~

### SECTION 1300. PATIENT CARE REPORTS (III)

#### **Section 1301. Patient Care Reports.**

~~—A. Each licensed provider must create and submit an electronic patient care report (ePCR) for each patient contact regardless of patient transport decision.~~

~~—B. The primary care attendant is responsible for documenting all patient contact, care, and transport decision within the ePCR. All required documentation must be completed within twenty four (24) hours of the conclusion of call.~~

~~—C. Each licensed provider must submit its ePCRs into PreMIS within seventy two (72) hours of the conclusion of call.~~

~~—D. When transporting to an emergency room (ER), patient ePCR shall be submitted to the ER within thirty (30) minutes of the completion of the call. In lieu of that, a paper pre-run information sheet may be substituted until the ePCR is sent. ePCR information shall be sent no later than twenty four (24) hours from completion of the call.~~

#### **Section 1302. Data Manager.**

~~—A. Each licensed provider that provides patient care shall appoint a Data Manager to ensure accuracy, HIPAA compliance, security, and provide timely submission of ePCRs into PreMIS.~~

~~—B. The Department must be notified of any change in the Data Manager within ten (10) days.~~

~~—C. The Data Manager shall ensure that each ePCR submitted reflects all the attendants on the incident including non-certified drivers (if applicable).~~

### **Section 1303. Content.**

~~— A. Patient care reports shall reflect services, treatment, and care provided directly to the patient by the provider including, but not limited to, information required to properly identify the patient, a narrative description of the call from time of first patient contact to final destination, all providers on the call, and other information as determined by the Department.~~

~~— B. All patient care reports shall be coherently written, authenticated by the author, and time stamped.~~

~~— C. Patient care reports involving refusals shall include, but not be limited to the following: details of any assessment performed; information regarding the patient's capacity to refuse; information regarding an informed refusal by the patient; information regarding provider's efforts to convince the patient to accept care; and any efforts by the provider to protect the patient after the refusal if the patient becomes incapacitated.~~

~~— D. Data submissions from ePCR software shall maintain a quality score no higher than fifty percent (50%) of the average state data quality score, as provided by the Department's vendor. Licensed providers shall have ninety (90) calendar days from the Department's notification to successfully correct data quality. For example, if the average state data quality score is five (5), then the licensed providers must have a quality score of seven and one half (7.5) or lower to meet this requirement.~~

### **Section 1304. Report Maintenance.**

~~— A. South Carolina utilizes PreMIS, an electronic patient care reporting system that is compliant with the current version of the National EMS Information System (NEMSIS). Data submissions from ePCR software into the state system must meet the Department's requirements as outlined in the South Carolina EMS Data Manager's program manual.~~

~~— B. The licensed provider shall provide accommodations and equipment adequate for the protection, security, and storage of patient care reports.~~

~~— C. The Department maintains an electronic data stream of the ePCR with the state required data elements from the original report. Licensed providers must maintain their copy of the original data, all attachments and appended versions of each ePCR for no less than ten (10) years on all adult patients and thirteen (13) years for minor patients as stated in S.C. Code Section 44-115-120. Attachments to ePCRs include, but are not limited to, EKGs, waveform capnography records, code summaries, short reports, and other forms of recorded media.~~

~~— D. Prior to closure of business, the licensed provider must arrange for preservation of ePCRs to ensure compliance with these regulations. The provider must notify the Department, in writing, describing these arrangements within ten (10) days of closure.~~

~~— E. In the event of a change of ownership, all patient care reports shall be transferred to the new owner(s).~~

~~— F. The patient care report is confidential. Reports containing protected or confidential health information shall be made available only to authorized individuals in accordance with state and federal laws.~~

~~— G. When patient care is transferred, the receiving agency shall receive the copy of the patient care report within a reasonable amount of time, preferably at the time of transfer, to ensure continuity in quality care.~~

~~—H. Pursuant to S.C. Code Section 44-61-160, a person who intentionally fails to comply with reporting, confidentiality, or disclosure of requirements in this section is subject to a civil penalty of not more than one hundred dollars (\$100) for a violation of the first time a person fails to comply and not more than five thousand dollars (\$5000) for a subsequent violation.~~

## **SECTION 1400. DO NOT RESUSCITATE ORDER**

### **1401. Purpose and Authority of Emergency Medical Services Do Not Resuscitate Order.**

~~—A. Title 44, Chapter 78 of the 1976 S.C. Code directs the Department to promulgate regulations necessary to provide directions to emergency medical personnel in identifying and honoring the wishes of patients who have executed a Do Not Resuscitate Order for Emergency Services. The Do Not Resuscitate Order for Emergency Services is commonly referred to as the EMS DNR law.~~

~~—B. The EMS DNR law is applicable only to resuscitative attempts by EMS providers in the pre-hospital setting such as the declarant's home, a long term care facility, during transport to or from a health care facility and in other locations outside of acute care hospitals.~~

~~—C. Specific statutory authority is found in S.C. Code Section 44-78-65.~~

### **Section 1402. Definitions.**

~~—A. The definitions contained in S.C. Code Section 44-78-15 are hereby incorporated by reference.~~

~~—B. Agent or Surrogate means a person appointed by the declarant under a Health Care Power of Attorney, executed or made in accordance with the provisions of S.C. Code Sections 62-5-504 and/or 44-77-10.~~

~~—C. Cardiac Arrest means the cessation of a functional heartbeat.~~

~~—D. Cardiopulmonary Resuscitation or CPR means the use of artificial respirations to support restoration of functional breathing combined with closed chest massage to support restoration of a functional heart beat following cardiac arrest.~~

~~—E. Department means the South Carolina Department of Health and Environmental Control.~~

~~—F. Respiratory Arrest (Pulmonary Arrest) means cessation of functional breathing.~~

~~—G. Do Not Resuscitate Order for Emergency Medical Services marker is a bracelet or necklace that is engraved with the patient's name, the health care provider's name and telephone number and the words "Do Not Resuscitate" or the letters DNR.~~

### **Section 1403. General Provisions.**

~~—A. The EMS DNR Form. The document which is purporting to be a "Do Not Resuscitate Order" for EMS purposes must shall be in substantially the following form:~~

~~A document purporting to be a "do not resuscitate order" for EMS purposes must be in substantially the following form~~

~~—NOTICE TO EMS PERSONNEL~~

This notice is to inform all emergency medical personnel who may be called to render assistance to

\_\_\_\_\_

(Name of patient)

that he/she has a terminal condition which has been diagnosed by me and has specifically requested that no resuscitative efforts including artificial stimulation of the cardiopulmonary system by electrical, mechanical, or manual means be made in the event of cardio-pulmonary arrest.

**REVOCATION PROCEDURE**

~~THIS FORM MAY BE REVOKED BY AN ORAL STATEMENT BY THE PATIENT TO EMS PERSONNEL, OR BY MUTILATING, OBLITERATING, OR DESTROYING THE DOCUMENT IN ANY MANNER.~~

Date: \_\_\_\_\_

\_\_\_\_\_

Patient's Signature (or Surrogate or Agent)

\_\_\_\_\_

Physician's Signature

\_\_\_\_\_

Physician's Address

\_\_\_\_\_

Physician's Telephone Number

~~— B. Distribution of the EMS DNR Form. The EMS DNR form, along with instructions for execution and a patient information sheet shall be distributed by the Department to health care providers. Informational pamphlets shall be prepared by the Department and made available to other interested parties upon request.~~

~~— C. Location of the Executed EMS DNR Form. The executed EMS DNR Form shall be placed in a location where the document is easily observed and recognized by EMS personnel. The form shall be displayed in such a manner that it will be visible and protected at all times.~~

~~— D. EMS DNR Marker. The DNR marker shall be a bracelet or necklace as approved by the Department. The marker may be worn upon the execution of the EMS DNR Document. Wearing of the marker shall not be mandatory but is encouraged. The marker will alert EMS personnel of the probable existence of the EMS DNR document. The marker shall be of metallic construction and shall be unique and easily recognizable. The marker shall contain the patient's name, the health care provider's name and telephone number and the words "Do Not Resuscitate" or the letters DNR.~~

~~— E. No person under the age of eighteen (18) may request or receive a "Do Not Resuscitate Order for Emergency Medical Services" as noted in S.C. Code Section 44-78-50(B).~~

**~~Section 1404. Revocation of EMS DNR Order.~~**

~~—The EMS DNR Order may be revoked at any time by the oral expression of the patient to EMS personnel or by the mutilation, obliteration or destruction of the document in any manner. If the order is revoked, EMS personnel shall perform full resuscitation and treatment of the patient.~~

**~~Section 1405. Patient's Assessment and Intervention. (H)~~**

~~When EMS Personnel report to a scene, they shall do a patient assessment. If an EMS DNR bracelet or necklace is found during the assessment, EMS personnel shall make a reasonable effort to determine that an EMS DNR form exists and to ensure that the EMS DNR form applies to the person on which the assessment is being made. If no DNR form is found, resuscitative measure will shall be initiated. If after starting resuscitative measures an EMS DNR form is later found, resuscitative measure must shall be stopped.~~

**~~Section 1406. Resuscitative Measures to be Withheld or Withdrawn. (H)~~**

~~In the event that the patient has a valid EMS DNR order, the following procedures shall be withheld or withdrawn:~~

- ~~—A. CPR;~~
- ~~—B. Endotracheal intubation and other advanced airway management;~~
- ~~—C. Artificial ventilation;~~
- ~~—D. Defibrillation;~~
- ~~—E. Cardiac resuscitation medication; and~~
- ~~—F. Cardiac diagnostic monitoring (ONLY withheld in the face of cardiac arrest).~~

**~~Section 1407. Procedures to Provide Palliative Treatment. (H)~~**

~~The following treatment may be provided as appropriate to patients who have executed a valid EMS DNR order:~~

- ~~—A. Suctioning;~~
- ~~—B. Oxygen;~~
- ~~—C. Pain medication;~~
- ~~—D. Non-cardiac resuscitation medications;~~
- ~~—E. Assistance in the maintenance of an open airway as long as such assistance does not include intubation or advanced airway management;~~
- ~~—F. Control of bleeding;~~

~~—G. Comfort care; and~~

~~—H. Support to patient and family.~~

**~~Section 1408. DNR Information for the Patient, the Patient’s Family, the Health Care Provider and EMS Personnel. (H)~~**

~~—A. Responsibilities of the patient or his or her Surrogate or agent.~~

~~The patient and his or her surrogate or agent shall:~~

~~—1. Make all care givers aware of the location of the EMS DNR Form and ensure that the form is displayed in such a manner that it will be visible and available to EMS personnel.~~

~~—2. Be aware of the consequences of refusing resuscitative measures.~~

~~—3. Be aware that if the form is altered in any manner resuscitative measures will be initiated.~~

~~—4. Understand that in all cases, supportive care will be provided to the patient.~~

~~—B. Responsibilities of the Health Care Provider (Physician) The patient’s physician:~~

~~—1. Has determined that the patient has a terminal condition.~~

~~—2. Has completed the patient’s EMS DNR Form.~~

~~—3. Has explained to the patient and family the consequences of withholding resuscitative care; the medical procedures that will be withheld and the palliative and supportive care that will be administered to the patient.~~

~~—C. Responsibilities of EMS Personnel.~~

~~EMS personnel:~~

~~—1. Will confirm the presence of the EMS DNR Form and the identity of the patient.~~

~~—2. Upon finding an unaltered EMS DNR Form, will withhold or withdraw resuscitative measures such as CPR, endotracheal intubation or other advanced airway management, artificial ventilation, defibrillation, cardiac resuscitation medication and related procedures.~~

~~—3. Will provide palliative and supportive treatment such as suctioning the airway, administration of oxygen, control of bleeding, provision of pain and non cardiac medications, provide comfort care and provide emotional support for the patient and the patient’s family.~~

~~—4. Must have in his possession either the original or a copy of the DNR Order during transport of the patient.~~

**~~SECTION 1500. FINES AND MONETARY PENALTIES~~**

**~~Section 1501. Fines and Monetary Penalties.~~**

~~—A. When a decision is made to impose monetary penalties, the following schedule shall be used as a guide to determine the dollar amount:~~

MONETARY PENALTY RANGES			
FREQUENCY	CLASS I	CLASS II	CLASS III
1st	\$300–500	\$100–300	\$50–100
2nd	\$500–1,500	\$300–500	\$100–300
3rd	\$1,000–3,000	\$500–1,500	\$300–800
4th	\$2,000–5,000	\$1,000–3,000	\$500–1,500
5th	\$5,000–7,500	\$2,000–5,000	\$1,000–3,000
6th or more	\$10,000	\$7,500	\$2,000–5,000

~~—B. When a licensed agency fails a vehicle reinspection, a Class IV penalty may be levied upon the agency. Pursuant to S.C. Code Section 44-61-70, the following Class IV fine schedule shall be used when a permitted ambulance or licensed rapid responder service loses points upon reinspection:~~

~~Frequency of violation of standard within a thirty-six (36) month period:~~

MONETARY PENALTY RANGES			
FREQUENCY	CLASS IV Points/Penalty		
1st	0-24	\$25-50	- -
2nd	25-50	\$50-100	- -
3rd	51-100	\$100-300	- -
4th	101-500	\$300-500	- -
5th	501-1000	\$500-1500	- -
6th or more	Over 1000	\$1000-3000	- -

~~—C. There may be multiple occurrences of a violation (Class I, II, and III) within a one (1) day period that would constitute multiple fineable occurrences. (For example, in allowing uncertified personnel to render patient care, each patient treated is an “occurrence” and thus a separate fineable offense.)~~

**SECTION 1600. SEVERABILITY**

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

**SECTION 1700. GENERAL**

Conditions that have not been addressed in these regulations shall be managed in accordance with best practices as interpreted by the Department. **SECTION 800 – [RESERVED]**

**SECTION 900 – [RESERVED]**

**SECTION 1000 – [RESERVED]**

**SECTION 1100 – [RESERVED]**



**SECTION 1200 – [RESERVED]**

**SECTION 1300 – [RESERVED]**

**SECTION 1400 – [RESERVED]**

**SECTION 1500 – [RESERVED]**

**SECTION 1600 – [RESERVED]**

**1700 – SANITATION AND INFECTION CONTROL**

**1701. General.**

A. The EMS Agency shall maintain and implement personnel practices that promote conditions that prevent the spread of infectious, contagious, or communicable diseases, including but not limited to standard precautions, transmission-based precautions, contact precautions, airborne precautions, and isolation techniques. The EMS Agency shall ensure proper disposal of toxic and hazardous substances. The EMS Agency shall ensure the preventive measures and practices are in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act of 1970; the Centers for Disease Control and Prevention; R.61-105, Infectious Waste Management; and other applicable federal, state, and local laws and regulations.

B. The EMS Agency shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions such as gloves in accordance with established guidelines.

**1702. Exterior Ambulance Surfaces.**

A. The EMS Agency shall ensure the exterior of the vehicle has a reasonably clean appearance.

B. The EMS Agency shall ensure exterior lighting is kept clear of foreign matter (insects, road grime, or other) to ensure adequate visibility.

**1703. Interior Ambulance Surfaces Patient Compartment.**

A. The EMS Agency shall ensure interior surfaces of each Ambulance are of a nonporous material to allow ease of cleaning and that carpet-type materials are not used on any surface of the patient compartment.

B. The EMS Agency shall ensure:

1. The floors of each Ambulance are free from sand, dirt, and other residue that may have been tracked into the compartment;

2. The wall, cabinet, and bench surfaces of each Ambulance are kept free of dust, sand, grease, or any other accumulated surface matter.

3. The interiors of cabinets and compartments of each Ambulance are kept free from dust, moisture, or other accumulated foreign matter.

4. Bloodstains, vomitus, feces, urine, and other similar matter are cleaned from each Ambulance and all equipment after each call, using an agent or sodium hypochlorite solution described in Section 1703.H.

5. Window glass and cabinet doors of each Ambulance are clean and free from foreign matter.

6. Each Ambulance is equipped with a receptacle provided for the deposit of trash, litter, and all used items.

B. The EMS agency shall utilize an Environmental Protection Agency-recommended germicidal and viricidal agent or a hypochlorite solution of ninety-nine (99) parts water and one (1) part bleach to clean patient contact areas. The agency shall utilize alcohol or sodium hypochlorite solution for surfaces where such an EPA solution is not recommended; however, alcohol should not be used for disinfection of large surfaces. The EMS Agency shall ensure the contact time for the hypochlorite solution is in accordance with the respected EPA registration for the select pathogen.

C. The EMS Agency shall ensure a container specifically for the deposit of contaminated needles or syringes and a second container for contaminated or infectious waste is provided on each Ambulance that is easily accessible from the patient compartment.

D. All licensed EMS Agencies shall clean all vehicles before and after each call.

#### **1704. Linen.**

A. The EMS Agency shall ensure that each Ambulance stores and maintains dry, clean linen.

B. The EMS Agency shall ensure each Ambulance is equipped with at least six (6) sets of freshly laundered or disposable linens to be used on cots and pillows and changed after each Patient is transported.

C. The EMS Agency shall ensure soiled linen is transported on the Ambulance in a closed plastic bag or container and removed from the Ambulance as soon as possible.

D. The EMS Agency shall ensure each Ambulance maintains blankets and towels that are intact, in good repair, and cleaned or laundered after each patient use. The EMS Agency shall ensure that the blankets are a hypoallergenic material designed for easy maintenance.

#### **1705. Oxygen Administration Apparatus. (II)**

A. The EMS Agency shall ensure oxygen administration devices such as masks, cannulas, and delivery tubing are disposable and only used once.

B. The EMS Agency shall ensure all masks, cannulas, and delivery tubing are individually wrapped and unopened until used on a Patient.

C. The EMS Agency shall ensure oxygen humidifiers are only filled with distilled or sterile water upon use and cleaned after each use. The EMS Agency may utilize disposable single-use oxygen humidifiers in lieu of multi-use types.

D. The EMS Agency shall ensure each Ambulance that carries portable oxygen tanks maintains a non-sparking oxygen wrench for use with the oxygen tanks.

#### **1706. Resuscitation Equipment. (II)**

A. The EMS Agency shall ensure bag mask assemblies and masks are free from dust, moisture, and other foreign matter and stored in the original container, jump kit, or a closed compartment on the Ambulance. The EMS Agency shall ensure each Ambulance maintains additional equipment needed to facilitate the use of a bag valve mask, such as a syringe, stored with the bag mask assembly. The EMS Agency shall ensure all masks, valves, reservoirs, and other items or attachments for bag mask assemblies are clean and manufacturer's recommendations on single-use equipment are followed where indicated.

B. The EMS Agency shall utilize an EPA recommended germicidal and viricidal agent or a sodium hypochlorite solution of ninety-nine (99) parts water and one (1) part bleach to clean resuscitation equipment not specifically addressed as single-use. The EMS Agency shall utilize alcohol or sodium hypochlorite solution to clean resuscitation equipment surfaces where such an EPA solution is not recommended.

### **1707. Suction Unit. (II)**

A. The EMS Agency shall ensure suction hoses are clean and free from foreign matter and manufacturers' recommendations on single-use equipment are followed where indicated.

B. The EMS Agency shall ensure the suction reservoir of each suction unit is clean and dry.

C. The EMS Agency shall ensure suction units are clean and free from dust, dirt, or other foreign matter.

D. The EMS Agency shall ensure tonsil tips and suction catheters are of the single-use disposable type and stored in sealed sterile packaging until used.

E. The EMS Agency's shall ensure suction units with attachments are cleaned and sanitized after each use.

### **1708. Splints. (II)**

The EMS Agency shall ensure:

A. Padded splints are neatly covered with a non-permeable material and clean, and when the outside cover of the splint becomes soiled, they are thoroughly cleaned or replaced;

B. Pneumatic trousers, if used, are clean and free from dust, dirt, or other foreign matter;

C. Commercial splints are free of dust, dirt, or other foreign matter;

D. Traction splints with commercial supports are clean and free from accumulated material.

E. All splinting materials are stored in such a manner as to promote and maintain cleanliness.

F. Splints are in functional working order with the recommended manufacturer's attachments.

G. Manufacturer's recommendations on single-use splint equipment are followed where indicated.

### **1709. Stretchers and Spine Boards. (II)**

A. The EMS Agency shall ensure all pillows, mattresses, and head immobilization devices (HIDs) that are not single-use items are covered with a non-permeable material and in good repair. The EMS Agency shall remove any compromised stretcher or spine board from service.

B. The EMS Agency shall ensure

1. All stretchers, cots, pillows, HIDs, and spine boards are clean and free from foreign material.

2. Canvas or neoprene covers on portable-type stretchers are in good repair.

3. All restraint straps and/or devices are kept clean and washed immediately if soiled.

4. Spinal immobilization boards are manufactured from an appropriate material to facilitate cleaning.

5. All spinal immobilization boards are free from rough edges or areas that may cause injury.

### **1710. Bandages and Dressings. (II)**

A. The EMS Agency shall ensure all bandages are clean and individually wrapped or stored in a closed container or cabinet. The EMS Agency shall ensure triangular bandages are single-use disposable type.

B. The EMS Agency shall ensure dressings are sterile, individually packaged and sealed, stored in a closed container or compartment, and if the seal is broken or wrap is torn, the dressing is discarded.

C. The EMS Agency shall ensure burn sheets are sterile and single-use only.

D. The EMS Agency shall ensure all bandages or dressings that have been exposed to moisture or soiled are replaced.

### **1711. Obstetrical (OB) Kits. (II)**

A. The EMS Agency shall ensure all OB kits are sterile and wrapped with cellophane or plastic, and if the wrapper is torn or the kit is opened but not used, the items in the kit that are not individually wrapped are discarded and replaced.

B. The EMS Agency shall ensure all OB kits are single-use only.

C. The EMS Agency shall ensure all items in each OB kit past the expiration date are replaced individually if other items are individually sealed and sterile.

### **1712. Oropharyngeal Appliances. (II)**

The EMS Agency shall ensure instruments inserted into a Patient's mouth or nose that are single-use only shall be individually wrapped and stored properly. The EMS Agency shall ensure all instruments inserted into a Patient's mouth that are not intended for single-use only are cleaned and decontaminated following manufacturer's guidelines.

### **1713. Communicable Diseases. (II)**

A. The EMS Agency shall ensure that when an Ambulance or transport vehicle has been contaminated with blood, body fluids, or other potentially infectious material (OPIM), to include potential contamination

from respiratory droplets if transporting a Patient with signs or symptoms consistent with a respiratory illness of an infectious cause, the vehicle is taken out of service until decontamination is completed.

B. The EMS Agency shall ensure all linen used during any transport is removed from the cot and properly disposed of, or immediately placed in a designated, leak-proof bag or container and sealed until cleaned. The EMS agency shall ensure all used linen is treated as contaminated and handled as per standard precautions.

C. The EMS Agency shall ensure all patient contact areas, equipment, and any surface soiled during the call is cleaned and disinfected pursuant to Section 1703.B

#### **1714. Equipment.**

The EMS Agency shall ensure all reusable equipment used for direct patient care is in good repair and cleaned as it becomes soiled, and kept free from foreign matter.

#### **1715. Equipment and Materials Storage Areas.**

The EMS Agency shall ensure all equipment not used in direct patient care is in storage spaces or compartments to prevent contamination or damage to direct patient care equipment or materials.

#### **1716. Personnel.**

The EMS Agency shall ensure uniforms and clothing are clean or changed if they become soiled, contaminated, or exposed to vomitus, blood, or other potentially infectious material (OPIM).

### **SECTION 1800 – AMBULANCE PERMITS. (I)**

#### **1801. General.**

A. The EMS Agency shall ensure that each Ambulance for which the permit is issued meets all requirements as to design, medical equipment, supplies, and sanitation as set forth in this regulation of the Department. The EMS Agency shall have each Ambulance inspected by the Department prior to issuance of the initial permit.

B. The EMS Agency shall display the permit decal for each specific Ambulance on the rear door or rear window of the Ambulance or aircraft portfolio, as applicable.

C. The EMS Agency shall not make an entry on, deface, alter, remove, or obliterate an Ambulance permit.

D. The EMS Agency shall return an Ambulance permit to the Department within ten (10) business days when the vehicle chassis is sold, removed from service, or when the window is replaced due to damage.

#### **1802. Temporary Ambulance Permit.**

A. The EMS Agency may request in writing, and the Department grant at its discretion, a temporary permit in cases where a temporary asset or short-term solution to an Ambulance is needed. The EMS Agency shall ensure these temporary assets meet all Ambulance permitting and equipment requirements for the level of service of its intended use.

B. The EMS Agency shall be issued a temporary Ambulance permit for a period not to exceed ninety (90) calendar days and may only be extended in extenuating circumstances at the Department’s discretion.

C. The EMS Agency shall ensure each temporary permitted Ambulance, with the exception of air transport units, has the following minimum exterior markings:

1. Illumination devices pursuant to Sections 1900.G;

2. Emblems and markings pursuant to Section 1901.B affixed on vehicles with temporary markings;  
and

3. The name on the face of the EMS Agency’s license affixed with temporary lettering not less than three (3) inches in height.

## **SECTION 1900 – STANDARDS FOR AMBULANCE PERMIT. (II)**

### **1901. Ambulance Design.**

The EMS Agency shall ensure all Ambulances meet the designs established by the Department as the minimum criteria for Ambulances permitted and utilized in South Carolina and are effective with the publication of this regulation. The EMS Agency shall ensure all equipment, lighting, interior and exterior doors, and environmental equipment operates as designed at all times when the unit is in service.

A. Base Unit. The EMS Agency shall ensure the chassis of each permitted Ambulance is at least three-quarter ton. In the case of modular or other type body units, the EMS Agency shall ensure the Ambulance chassis is proportionate to the body unit, weight and size; power train is compatible and matched to meet the performance criteria listed in the Federal KKK-A-1822 Specification, NFPA 1917 or Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances version 2.0. After updates are released to the Federal KKK-A- 1822 Specification, NFPA 1917 or Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances version 2.0, the EMS agency shall make applicable safety-related upgrades to each Ambulance on timetables as determined by the Department.

B. Emblems and Markings. The EMS Agency shall ensure all items in this section are of reflective quality and in contrasting color to the background on which it is applied. The EMS Agency shall ensure:

1. There is a continuous stripe, of not less than three (3) inches on cab and six (6) inches on patient compartment, to encircle the entire Ambulance with the exclusion of the hood panel. The EMS Agency shall ensure reflective chevrons, Battenberg patterns, or other markings are at least six (6) inches in height and continuously encircle the entire Ambulance and meet the requirements of this section.

2. Emblems and markings are of the type, size and location as follows:

a. Side: Each side of the Patient compartment has the “Star of Life,” not less than twelve (12) inches in height, the word “AMBULANCE”, not less than six (6) inches in height, under or beside each star, and the name of the EMS Agency as stated on the EMS Agency’s license, of lettering not less than three (3) inches in height.

b. Rear: The word “AMBULANCE”, not less than six (6) inches in height, two (2) “Star of Life” emblems of not less than twelve (12) inches in height, and the name of the EMS Agency as stated on the EMS Agency’s license, of lettering not less than three (3) inches in height.

C. The EMS Agency shall ensure that prior to private sale of Ambulances to the public, all emblems and markings in Section 1900.B are removed.

D. Interior Patient Compartment Dimensions. The EMS Agency shall ensure the interior Patient compartment has the following dimensions:

1. Length: A minimum of twenty-five (25) inches clear space at the head, ten (10) inches at the foot of a seventy-six (76) inch cot, and a minimum inside length of one hundred twenty-two (122) inches.

2. Width: A minimum inside width of sixty-nine (69) inches.

3. Height: A minimum dimension of sixty (60) inches from floor to ceiling.

4. A minimum of twelve (12) inches of clear aisle walkway between the edge of the primary patient cot and base of the nearest vertical feature measured along the floor.

E. Access to Ambulance.

1. Driver Compartment.

a. The EMS Agency shall ensure the driver's seat has an adjustment to accommodate the fifth (5<sup>th</sup>) percentile to ninety fifth (95<sup>th</sup>) percentile adult male.

b. The EMS Agency shall ensure there is a functional door on each side of the Ambulance in the driver's compartment.

c. The EMS Agency shall ensure each Ambulance provides separation between the Driver compartment and the patient compartment to provide privacy for radio communication and to protect the Driver from an unruly Patient. The EMS Agency shall ensure provision for both verbal and visual communication between Driver and Attendant by a sliding shatterproof material partition or door. The EMS Agency shall ensure the bulkhead of each Ambulance is strong enough to support an Attendant's seat in the patient area at the top of the Patient's head and to withstand deceleration forces of the Attendant in case of accident.

2. Patient Compartment:

a. The EMS Agency shall ensure there is a functional door on the right side of the patient compartment near the Patient's head area of the compartment. The EMS Agency shall ensure the side door allows EMTs, AEMTs, and Paramedics to position themselves at the Patient's head and quickly remove the Patient from the side of the vehicle if the rear door is jammed.

b. The EMS Agency shall ensure the rear doors of the patient compartment swing clear of the opening to allow full access to the patient's compartment.

c. The EMS Agency shall ensure the patient compartment doors incorporate a holding device to prevent the door closing unintentionally from wind or vibration. The EMS Agency shall ensure that when patient compartment doors are open, the holding device shall not protrude into the access area. The EMS Agency may allow Special Purpose Ambulances to be exempt as long as access/egress is not obstructed due to wheelchair ramps or other specialized equipment.

d. The EMS Agency shall ensure that Ambulances carrying spare tires position the spare tire to be removed without disturbing the Patient.

F. Interior Lighting:

1. Driver Compartment: The EMS Agency shall ensure lighting is available for both the Driver and an Attendant, if riding in the driving compartment, to read maps, records, or etc. The EMS Agency shall ensure there is shielding of the driver's area from the lights in the patient compartment.

2. Patient Compartment: The EMS Agency shall ensure illumination provides an intensity of forty (40)-foot candles at the level of the Patient. The EMS Agency shall ensure lights are controllable from the entrance door, the head of the Patient, and the driver's compartment. The EMS Agency may utilize a rheostat control of the compartment lighting or by a second system of low intensity lights to reduced lighting levels.

G. Illumination Devices:

1. Illumination Devices: Flood and load lights. The EMS Agency shall ensure there is least one (1) flood light mounted not less than seventy-five (75) inches above the ground and unobstructed by open doors located on each side of the vehicle. The EMS Agency shall ensure a minimum of one (1) flood light, with a minimum of fifteen (15) foot candles, is mounted above the rear doors of the vehicle.

2. Warning Lights. The EMS Agency shall ensure the Ambulance emergency warning light system contains a minimum of twelve (12) fixed red lights, one (1) fixed clear light, and one (1) fixed amber light. The EMS Agency shall ensure the upper body warning lights are mounted at the extreme upper corner areas of the Ambulance body, below the horizontal roofline. The EMS Agency shall ensure the single clear light is centered between the two (2) front-facing, red, upper corner lights. The EMS Agency shall ensure doors or other ancillary equipment do not obstruct the standard warning lights. The EMS Agency shall ensure the amber light is symmetrically located between the two (2) rear-facing red lights. The EMS Agency shall ensure there are two (2) red grille lights. The EMS Agency shall ensure the lateral facing intersection lights are mounted as close as possible to the front upper edge of each front fender and may be angled forward a maximum of thirty degrees (30°).

H. Seats:

1. Driver Compartment: The EMS Agency shall ensure a seat for both Driver and Attendant is provided in the driver's compartment and that each seat shall have armrests on each side of the driver's compartment.

2. Patient Compartment: The EMS Agency shall ensure two (2) fixed seats that are padded, eighteen (18) inches wide by eighteen (18) inches high to head of Patient behind the driver; the other seat may be a square-bench type located on the curb (right) side of the vehicle.

I. Safety Factors for Patient Compartment:

1. Cot Fasteners: The EMS Agency shall ensure crash-stable fasteners are provided to secure cot(s).

2. Cot Restraint: If the cot is floor-supported on its own support wheels, the EMS Agency shall provide a means to secure it in position under all conditions. The EMS Agency shall ensure all untitled Ambulances purchased for use in South Carolina after July 1, 2017, meet all seating and cot restraint mandates outlined in the Federal KKK-A-1822F, all change notices included.



3. Patient Restraint: The EMS Agency shall ensure a restraining device is provided to prevent longitudinal or transverse dislodgement of the Patient during transit or to restrain an unruly Patient to prevent further injury or aggravation to the existing injury.

4. Safety Belts for Drivers and Attendants: The EMS Agency shall ensure quick-release, retractable, and self-adjustable safety belts are provided for the Driver, the Attendants, and all seated Patients.

5. Mirrors:

a. The EMS Agency shall ensure there are two (2) exterior rear view mirrors, one (1) mounted on the left side of the vehicle and one (1) mounted on the right side. The EMS Agency shall ensure the location of mounting provides maximum rear vision from the driver's seated position.

b. The EMS Agency shall ensure there is an interior rear view mirror or rear view camera to provide the Driver with a view of occurrences in the patient compartment.

6. Windshield Wipers and Washers: The EMS Agency shall ensure each vehicle is equipped with two (2) electrical windshield wipers and washers in addition to defrosting and defogging systems.

7. Sun Visors: The EMS Agency shall ensure there is a sun visor for both Driver and Attendant.

8. Exterior Visual Lighting: The EMS Agency shall ensure there are operational headlights (high and low beam), taillights, brake lights, and turn signals that can be operated by the Driver of the vehicle.

J. Environmental Equipment: Driver/Patient Compartment.

1. Heating: The EMS Agency shall ensure each Ambulance has the capability to heat the patient compartment to a temperature of seventy-five degrees Fahrenheit (75°F) within a reasonable period while driving in an ambient temperature of zero degrees Fahrenheit (0°F). The EMS Agency shall ensure the heating system is designed to recirculate inside air and is capable of introducing twenty percent (20%) of outside air with minimum effect on inside temperature. Fresh air intake shall be located in the most practical contaminant-free air space on the vehicle.

2. Heating Control: The EMS Agency shall ensure heating is thermostatically or manually controlled and the heater blower motors are at least a three (3) speed (high, medium, and low) design. The EMS Agency shall ensure separate switches are installed in the patient compartment.

3. Air Conditioning: The EMS Agency shall ensure the air conditioning in each Ambulance has a sufficient capacity to lower the temperature in the driver's and patient's compartment to seventy-five degrees Fahrenheit (75°F) within a reasonable period and maintain that temperature while operating in an ambient temperature of ninety-five degrees Fahrenheit (95°F). The EMS Agency shall ensure each air conditioning unit is designed to deliver twenty percent (20%) of fresh outside air of ninety-five degrees Fahrenheit (95°F) ambient temperature while holding the inside temperature specified. The EMS Agency shall ensure all parts, equipment, and workmanship are in keeping with accepted air conditioning practices.

4. Air Conditioning Controls: The EMS Agency may utilize manual or thermostatic air delivery controls to operate the unit. The EMS Agency is not required to have a reheat type system in the driver's compartment unit. The EMS Agency shall ensure switches or other controls are within easy reach of the Driver in his normal driving position. The EMS Agency shall ensure air delivery fan motors are at least a three (3) speed design. The EMS Agency shall ensure switches and other control components exceed in capacity the amperage and resistance requirements of the motors.

5. Environmental Control and Medications: The EMS Agency shall ensure the temperature in the patient compartment or anywhere medications are stored (QRVs, fire apparatus, rapid response vehicles, carry-in bags, and other) is monitored for temperature extremes to prevent drug adulteration. The EMS Agency shall ensure medications (excluding oxygen) and IV fluids are removed and discarded if the temperatures reach or exceed one hundred degrees Fahrenheit (100°F), or thirty-eight degrees Celsius (38°C). The EMS Agency shall ensure medications and IV fluids are removed and discarded if temperatures in the drug storage area drop below twenty degrees Fahrenheit (20°F), or negative seven degrees Celsius (-7°C).

6. Insulation: The EMS Agency shall ensure the entire body, side, ends, roof, floor, and patient compartment doors are insulated to minimize conduction of heat, cold, or external noise entering the vehicle's interior. The EMS Agency shall ensure the insulation is vermin- and mildew-proof, fireproof, non-hygroscopic, non-setting type. The EMS Agency may consider plywood floor when undercoated sufficient insulation for the floor area.

K. Storage Cabinets: The EMS Agency shall ensure all cabinets meet the criteria as stated in the most current edition of the Federal KKK-A-1822 Specification, NFPA 1917, or similar specification standards accepted by the Department as to types of surfaces, design, and storage. The EMS Agency shall ensure cabinets are of a size and configuration to store all necessary equipment and all equipment in interior cabinets is accessible to Attendants at all times.

L. Two-Way Radio Mobile: The EMS Agency shall include on each vehicle two-way radio mobile equipment that will provide a reliable system operating range of at least a twenty (20) mile radius from the base station antenna. The EMS Agency shall ensure the mobile installation provides microphones for transmitting to at least medical control and receiving agencies, at both the driver's position and in the patient's compartment. The EMS Agency shall ensure selectable speaker outputs, singly and in combination are provided at the driver's position, in the patient's compartment, and through the public address system.

1. The EMS Agency shall provide the Department with all radio frequencies utilized by the EMS Agency as requested by the Department.

2. In the event technological advancements render the above components obsolete, the Department may make determinations as to the efficacy of proposed technology on an individual basis prior to allowing its use. The EMS Agency may utilize cell phones with hand-held radios that are able to reach medical control, dispatch center, and receiving facilities as backup.

M. Siren-Public Address: The EMS Agency shall ensure all siren and public address systems provide a power output with a minimum one hundred (100) watts, and in voice operation the power output is at least forty-five (45) watts through two (2) exterior mounted speakers. The EMS agency shall ensure the public address amplifier is independent of the mobile radio unit.

N. Antenna: The EMS Agency shall mount each antenna with coaxial or other cable if a radio system is installed.

O. Glass Windows: The EMS Agency shall ensure all windows, windshield, and door glass are shatterproof.

P. The EMS provider shall establish a means to immediately identify that a vehicle is out of service for any operator who might have reason to use the vehicle. The EMS Agency shall ensure any vehicle that is

“out of service”, whether for mechanical or staffing issues, is readily identifiable to the public and the Department. The EMS Agency shall identify out of service vehicles by one (1) of the following means:

1. A sign on the outside of the driver’s door near the door handle, minimum eight and one half inches by eleven inches (8.5” × 11”) and red in color;

2. A special bag that covers the steering wheel, red in color, and labeled “Out of Service”;

3. A large sign on the driver’s window, red in color, reading “Out of Service,” laminated, or a permanent, commercially manufactured type, minimum eight and one half inches by eleven inches (8.5” × 11”). If the unit is being driven and is out of service, the sign may be placed in the far right hand corner of the front window so as to not obstruct the Driver’s vision but so as to be visible from the exterior of the vehicle.

**Section 1902. Re-mounted Ambulance Design and Equipment.**

After July 1, 2022, EMS Agencies utilizing re-mounted Ambulance shall ensure these units are compliant with the Commission on Accreditation of Ambulance Services (CAAS) “Ground Vehicle Standards for Ambulances” or other nationally recognized standards as approved by the Department.

**SECTION 2000 – [RESERVED]**

**SECTION 2100 – AMBULANCE MEDICAL EQUIPMENT**

A. The EMS Agency shall ensure that each BLS level Ambulance maintains the following equipment when the Ambulance is in use and available for call:

<b><u>SECTION</u></b>	<b><u>ITEM</u></b>	<b><u>QUANTITY</u></b>
	<b><u>STRETCHERS</u></b>	
<u>1.</u>	<u>Multilevel, elevating stretcher with two (2) sets of restraining straps at least two (2) inches wide</u>	<u>One (1)</u>
<u>2.</u>	<u>Secondary Patient folding transport stretcher with two (2) sets of restraining straps and a vinyl covered and aluminum frame</u>	<u>One (1)</u>
	<b><u>SUCTION DEVICES</u></b>	
<u>3.</u>	<u>Permanent onboard engine vacuum suction aspiration system with wide-bore tubing</u>	<u>One (1)</u>
<u>4.</u>	<u>Portable suction device with regulator and with six (6) ounce reservoir</u>	<u>One (1)</u>
<u>5.</u>	<u>Wide-bore tubing, rigid pharyngeal curved suction tip; tonsil and flexible suction catheters between six (6) and ten (10) French catheter</u>	<u>Two (2)</u>
<u>6.</u>	<u>Wide-bore tubing, rigid pharyngeal curved suction tip; tonsil and flexible suction catheters between twelve (12) and sixteen (16) French catheter</u>	<u>Two (2)</u>
	<b><u>OXYGEN</u></b>	
<u>7.</u>	<u>Portable oxygen cylinder: Minimum size “D” (three hundred sixty (360) liters); one (1) portable with liter flow gauge and wrench and one (1) full, sealed, and stored. Liter flow gauges non-gravity, dependent type.</u>	<u>Two (2)</u>

8.	<u>Permanent onboard oxygen capable of storing two thousand four hundred (2400) liters with humidifier; hospital grade piped oxygen system.</u>	<u>One (1)</u>
9.	<u>Adult and pediatric single-use, individually wrapped, non-rebreather masks and cannulas</u>	<u>Three (3) each</u>
10.	<u>“No Smoking” sign permanently displayed in Patient compartment</u>	<u>One (1)</u>
11.	<u>Adult and pediatric capable pulse oximeter</u>	<u>One (1) each</u>
	<b><u>BAG VALVE MASK (BVM) VENTILATION UNITS</u></b>	
12.	<u>Hand operated adult, pediatric, and neonate BVM; Valves that operate in all weather, unit capable of delivering ninety to one hundred percent (90 to 100%) oxygen, and includes safety pop-off mechanism with override capability.</u>	<u>One (1) each</u>
13.	<u>Additional BVM masks sizes in small adult, toddler, and neonate</u>	<u>One (1) each</u>
	<b><u>NONMETALLIC OROPHARYNGEAL AIRWAY (OPA) (BERMAN TYPE) AND NASOPHARYNGEAL AIRWAYS (NPA)</u></b>	
14.	<u>Individually wrapped OPA to accommodate neonate through large adult</u>	<u>One (1) each</u>
15.	<u>Individually wrapped NPA fourteen (14) French through thirty-four (34) French</u>	<u>One (1) each</u>
16.	<u>Bite ticks: Commercially made and individually wrapped</u>	<u>One (1) package</u>
17.	<u>Minimum five inch by nine inch (5” x 9”) sterile dressings</u>	<u>Eight (8)</u>
18.	<u>Sterile gauze pads that are size four inch by four inch (4” x 4”))</u>	<u>Twenty-four (24)</u>
19.	<u>Three inches by five yards (3” x 5 yards) of self-adhering bandages individually wrapped or in clean containers</u>	<u>Ten (10)</u>
20.	<u>Four inches by four inch (4” x 4”) commercial sterile occlusive dressing</u>	<u>Two (2)</u>
21.	<u>Hypoallergenic adhesive tape (1”, 2” Wide)</u>	
22.	<u>Sterile burn sheets</u>	<u>Two (2)</u>
	<b><u>SPLINTS</u></b>	
23.	<u>Bi-polar or uni-polar traction splint: lower extremity, length of splint minimum of forty-three (43) inches, limb support slings, padded ankle hitch, traction device, and heel stand. Commercially available arm or leg splints may be substituted such as cardboard, metal, pneumatic, vacuum, or plastic.</u>	<u>One (1)</u>
24.	<u>Thirty-six inch (36”) padded splints: material comparable to four-ply wood for coadaptation splinting of the lower extremities</u>	<u>Two (2)</u>
25.	<u>Fifteen inch by three inch (15” x 3”) padded splints: Wooden type, for fractures of the upper extremity.</u>	<u>Two (2)</u>
	<b><u>SPINAL IMMOBILIZATION DEVICES</u></b>	
26.	<u>Kendrick Extrication Device (KED), Extrication Plus-One (XP-1) or equivalent commercial device</u>	<u>One (1)</u>
27.	<u>Child or pediatric spine board or commercial device</u>	<u>One (1)</u>
28.	<u>Minimum sixteen inch by seventy-two inch (16” x 72”) long spine board: constructed of three-quarter (3/4) inch impervious material and at least three-quarter (3/4) inch runners on each</u>	<u>One (1)</u>

	<u>side for lifting with straps. If not equipped with runners, then hand holds are accessible with work gloves.</u>	
29.	<u>Cervical collars: One (1) each of non-adjustable neonate, adult, and large adult sizes or two (2) each of adjustable child and adult sizes</u>	<u>One (1) each of non-adjustable or two (2) each of adjustable</u>
30.	<u>Patient restraint straps or commercial disposable straps that accommodate child through large adult</u>	<u>Six (6)</u>
31.	<u>Commercially available head immobilization device</u>	<u>One (1)</u>
32.	<u>Triangular bandages</u>	<u>Three (3)</u>
33.	<u>Blankets</u>	<u>Two (2)</u>
34.	<u>Large bandage shears or trauma shears</u>	<u>One (1)</u>
35.	<u>Sterile obstetrical kit containing gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, bulb syringe and a receiving blanket</u>	<u>One (1)</u>
	<b><u>BLOOD PRESSURE SETS</u></b>	
36.	<u>Blood pressure cuff with stethoscope in adult and pediatric sizes</u>	<u>One (1) each</u>
37.	<u>Portable blood pressure set in adult and pediatric sizes</u>	<u>One (1) each</u>
38.	<u>Thigh or bariatric cuff</u>	<u>One (1)</u>
39.	<u>Stethoscopes that are adult and pediatric capable</u>	<u>One (1)</u>
40.	<u>Emesis basin or commercial emesis container</u>	<u>One (1)</u>
41.	<u>Bedpan and urinal</u>	<u>One (1) each</u>
42.	<u>Hand carried flashlights or electric lanterns: Minimum two (2) inch reflector, functional, and battery operated. Penlights do not meet this requirement.</u>	<u>Two (2)</u>
43.	<u>Mounted fire extinguisher, carbon dioxide (CO2) or dry chemical, five (5) pound capacity, type ABC</u>	<u>One (1)</u>
44.	<u>Working gloves with leather palms and reflective vests that meet the American National Standards Institute (ANSI) 201 standards for High Visibility Public Safety Vests for each crew member</u>	<u>Two (2) pair</u>
45.	<u>Sterile saline or water</u>	<u>One thousand (1,000)cubic centimeters</u>
46.	<u>Protective head gear with chin straps and eye protection device. Standard fire helmet face shield is not acceptable.</u>	<u>Two (2) each</u>
47.	<u>Latex-free personal protection equipment (PPE) (gloves, masks, gowns, eye shields)</u>	
48.	<u>Automated External Defibrillator (AED): Adult and pediatric capable w/ infant, child, and adult pads. Unless staffed by ALS personnel who are utilizing a manual monitor or defibrillator. Monitor may be utilized by BLS personnel if “AED Mode” is an available setting.</u>	<u>One (1)</u>
49.	<u>Non-combustible flameless flares. Three (3) red reflectorized (such as reflective triangles) or chemically induced illumination devices may be substituted for flares.</u>	<u>Three (3)</u>
50.	<u>Four (4) gauge copper, six hundred amperage (600 amp) rating battery jumper cables</u>	<u>One (1) set</u>
51.	<u>Commercial arterial tourniquet</u>	<u>Two (2)</u>
52.	<u>Adhesive bandages</u>	<u>Five (5)</u>

53.	U. S. Department of Transportation Emergency Response Guidebook, (ERG) - Current Edition	One (1)
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B. Local Medical Control Option (MCO) BLS Medical Equipment. The EMS Agency shall maintain the following items on each Ambulance providing BLS emergency services unless the Medical Control Physician declines use of the equipment. The EMS Agency shall ensure the MCO items are incorporated into the agency's Protocols pursuant to Section 104.B.

<u>SECTION</u>	<u>ITEM</u>	<u>QUANTITY</u>
1.	<u>BIADS – Age and Weight Appropriate</u>	<u>One (1) Each</u>
2.	<u>Glucometer with five (5) Test Strips &amp; Lancets</u>	<u>One (1)</u>
3.	<u>Commercial arm/leg splints (would replace #22-23)</u>	<u>Four (4)</u>

C. The EMS Agency shall ensure that each ILS and ALS level Ambulance maintains the equipment pursuant to Sections 2100.A and B and the following equipment when the Ambulance is in use and available for call:

<u>SECTION</u>	<u>ITEM</u>	<u>QUANTITY</u>
1.	<u>Fourteen (14), sixteen (16), eighteen (18), twenty (20), twenty-two (22), and twenty-four (24) gauge intravenous (IV) cannulae</u>	<u>Four (4) each</u>
2.	<u>Macro drip sets</u>	<u>Two (2)</u>
3.	<u>Micro drip sets</u>	<u>Two (2)</u>
4.	<u>Intravenous tourniquets</u>	<u>Three (3)</u>
5.	<u>Intravenous tourniquets</u>	<u>Three (3)</u>
6.	<u>Laryngoscope handle and batteries</u>	<u>One (1)</u>
7.	<u>Laryngoscope blades: 0-4 Miller and 1-4 Macintosh (Adult, Pediatric, and Neonate sizes)</u>	<u>One (1) each</u>
8.	<u>Disposable endotracheal tubes sizes 2.5 through 8 millimeters (mm) as well as intubation stylets sized for each tube</u>	<u>One (1) each</u>
9.	<u>Syringes: Sizes 1, 3, 10, and 20 millileters (ml)</u>	<u>Two (2) each</u>
10.	<u>Syringe greater than or equal to 50 millileters (ml)</u>	<u>One (1)</u>
11.	<u>Alcohol and iodine preps</u>	<u>Twelve 12 each</u>
12.	<u>Normal saline or other appropriate intravenous (IV) solution</u>	<u>Four (4) liters</u>
13.	<u>Intraosseous devices: pediatric</u>	<u>Two (2) sizes</u>
	<u>Magill forceps: adult and pediatric</u>	<u>One (1) each size</u>
14.	<u>Blind insertion airway devices (BIADs) such as dual lumen or laryngeal mask airway (LMA) airways, age and weight appropriate</u>	<u>One (1) each range</u>
15.	<u>Portable sharps container</u>	<u>One (1)</u>
16.	<u>Pediatric length and weight-based drug dose chart or tape</u>	<u>One (1)</u>

D. Local Medical Control Option (MCO) ILS and ALS Medical Equipment. The EMS Agency shall maintain the following items on each Ambulance providing ILS and/or ALS unless the Medical Control Physician declines use of the equipment. The EMS Agency shall ensure the MCO items are incorporated into the EMS Agency's Protocols pursuant to Section 104.B.

<u>SECTION</u>	<u>ITEM</u>	<u>QUANTITY</u>
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<u>1.</u>	<u>19-gauge to 25-gauge butterfly or scalp vein needles</u>	<u>Four (4)</u>
<u>2.</u>	<u>21 or 23-guage needles</u>	<u>3</u>
<u>3.</u>	<u>25-gauge needles</u>	<u>3</u>
<u>4.</u>	<u>Equipment for drawing blood samples</u>	
<u>5.</u>	<u>Intraosseous devices – Adult size</u>	<u>1</u>

E. The EMS Agency shall equip each Ambulance providing advanced cardiac life support shall be equipped with a battery powered (DC) portable monitor-defibrillator unit, for both adult and pediatric Patients, with electrocardiogram (ECG) printout and capable of transcutaneous pacing. The EMS Agency shall utilize monitor-defibrillator equipment with the capability of producing a hard copy of Patient’s ECG, a standard 12-lead ECG, and that performs continuous monitoring of end tidal carbon dioxide (EtCO<sub>2</sub>) output. The EMS Agency may substitute a Portable EtCO<sub>2</sub> device that meets the same criteria as above.

F. Medications and Fluids. The EMS Agency shall ensure that each ILS and ALS level Ambulance maintains medications and fluids as approved by the Department for possession and administration by EMTs, AEMT, and Paramedics trained and certified in their use and authorized by the EMS Agency’s Medical Control Physician. The EMS Agency shall ensure all medications and fluids are incorporated into the EMS Agency’s Protocols pursuant to Section 104.B

G. Oxygen Cylinders. The EMS Agency shall ensure all oxygen cylinders are readily accessible and securely stored when the Ambulance is in motion.

H. The EMS Agency shall maintain all equipment used in the provision of patient care clean, in good repair and operating condition, and in accordance with Occupational Safety and Health Administration (OSHA) Standard 1910.1030. All equipment used by the EMS Agency in the provision of patient care is subject to Inspection as deemed appropriate by the Department.

## **SECTION 2200 – AIR AMBULANCE**

### **2201. Permitting. (I)**

No EMS Agency, Ambulance service provider, agent or broker shall secure or arrange for Air Ambulance service originating in the State of South Carolina unless the Air Ambulance service meets the provisions of South Carolina Emergency Medical Services Act and regulations. The EMS Agency providing Air Ambulance services that transport Patients in the prehospital setting shall be permitted as Basic Life Support, Advanced Life Support, or Special Purpose services. The Department shall inspect each Air Ambulance prior to issuing an initial Permit and thereafter at a frequency as determined by the Department.

A. The EMS Agency shall submit an application to the Department, in a format as determined by the Department, prior to being issuing the initial Air Ambulance permit and Air Ambulance permit renewals. The EMS Agency shall submit the following documentation with the application:

1. Insurance Requirements: The EMS Agency to provide Air Ambulance services shall carry an Air Ambulance insurance policy and provide a notice in writing to the Department within thirty (30) days of any notice of cancellation. The EMS Agency shall maintain the following insurance policy on the Air Ambulance:

a. The minimum amount of one million dollars (\$1,000,000) for injuries to, or death of, anyone (1) person arising out of any one (1) Incident or accident;

b. The minimum amount of three million dollars (\$3,000,000) for injuries to, or death of, more than one (1) person in any one (1) accident;

c. The minimum amount of five hundred thousand dollars (\$500,000) for damage to property from any one (1) accident;

2. Proof that the EMS Agency carries professional liability coverage in the minimum amount of five hundred thousand dollars (\$500,000) per occurrence, with a license to do business in the home assigned state of the Air Ambulance;

3. A copy of current FAA operational certificate including designation for Air Ambulance operations.;

4. A letter of agreement that each aircraft meets the specifications of this regulation if the aircraft is leased from a pool;

B. The EMS Agency shall ensure that prior to issuance of an initial or renewal Air Ambulance Permit that the Air Ambulance for which the Permit is issued meets all requirements as set forth in this regulation. Each Ambulance permit shall be issued for a specific Air Ambulance and is not transferrable to another vehicle.

C. The EMS Agency shall ensure each Air Ambulance conforms to all federal and state laws and regulations, including Title 14 of the Code of Federal Regulations (14 CFR) part 135.

D. Out-of-State Air Ambulances.

1. EMS Agencies from out-of-state with Air Ambulances transporting Patients from locations originating in South Carolina shall obtain an EMS Agency license from the Department prior to engaging in operations and shall have applicable current and valid licenses and permits in their home state, except where exempt pursuant S.C. Code Section 44-61-100(D).

2. EMS Agencies from out-of-state operating Air Ambulances in a state where no permit is available shall obtain a license in South Carolina and meet all requirements in Section 1200.

3. EMS Agencies from out-of-state with Air Ambulances transporting Patients initiating in South Carolina shall submit each Patient Care Report into the within seventy-two (72) hours of completing the transport.

## **2202. Air Ambulance Aircraft.**

The EMS Agency shall ensure all operations comply with all federal aviation regulations which are adopted by reference, FAA Part 135. The EMS Agency shall ensure each aircraft meets the following specifications:

A. Configured in such a way that the medical Attendants have adequate access for the provision of patient care within the cabin to give cardiopulmonary resuscitation and maintain Patient's life support. The EMS Agency shall ensure:

1. The aircraft has an entry that allows loading and unloading without excessive maneuvering (no more than forty-five (45) degrees about the lateral axis and thirty (30) degrees about the longitudinal axis) of the Patient; and



2. The configuration does not compromise functioning of monitoring systems, intravenous lines, and manual or mechanical ventilation.

B. Has at least one (1) stretcher or cot that can be carried to the Patient and allow loading of a supine Patient by two (2) Attendants. The EMS Agency shall ensure:

1. The maximum gross weight allowed on the stretcher or cot (inclusive of Patient and equipment) as consistent with manufacturer's guidelines;

2. The aircraft stretchers, cots, and the means of securing it in-flight are consistent with federal aviation regulations;

3. The stretcher or cot is sturdy and rigid enough that it can support cardiopulmonary resuscitation;

4. The head of the cot is capable of being elevated at least thirty (30) degrees for patient care and comfort; and

5. The Patient placement allows for safe personnel egress.

C. Has appropriate communication equipment to ensure both internal crew and air to ground exchange of information between individuals and agencies appropriate to the mission, including at least medical control, air traffic control, emergency services (EMS, law enforcement agencies, and fire), and navigational aids;

D. Is equipped with radio headsets that ensure internal crew communications and transmission to appropriate agencies;

E. The pilot is able to control and override radio transmissions from the cockpit in the event of an Emergency situation;

F. Lighting. The EMS Agency shall ensure each Air Ambulance has a supplemental lighting system installed in the aircraft which includes standard lighting and is sufficient for patient care; The EMS Agency shall ensure:

1. The lighting system includes a self-contained lighting system powered by a battery pack or a portable light with a battery source is available;

2. That red lighting or low intensity lighting may be used in the patient care area if not able to isolate the patient care area from effects on the cockpit or on a pilot; and

3. For those flights meeting the definition of "long range," the EMS Agency shall have additional policies in place to address how cabin lighting will be provided during fueling and or technical stops to ensure proper Patient assessment can be performed and adequate patient care provided.

G. Has hooks and/or devices for hanging intravenous fluid bags;

H. Rotor Wing Aircraft must have an external landing light and tail-rotor position light;

I. Design does not compromise Patient stability in loading, unloading, or in-flight operations;

J. Temperature. The EMS Agency shall ensure:

1. The interior of the Air Ambulance is climate controlled to avoid adverse effects on Patients and personnel on board;

2. The thermometer is mounted inside the Air Ambulance cabin; and

3. The Air Ambulance cabin temperatures are measured and documented every fifteen (15) minutes during a patient transport until temperatures are maintained within the range of fifty degrees Fahrenheit (50° F) to ninety-five degrees Fahrenheit (90° F), or (ten degrees Celsius (10° C) to thirty-five degrees Celsius (35° C)) for aircraft.

K. Electric power outlet. The EMS Agency shall ensure each Air Ambulance aircraft is equipped with an inverter or appropriate power source of sufficient output to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical aircraft or ambulance equipment. The EMS Agency shall ensure each Air Ambulance maintains extra batteries onboard for critical patient care equipment.

### **2203. Aircraft Flight Crew.**

A. Rotorcraft Pilot. The EMS Agency shall ensure:

1. Each Rotorcraft pilot possess at least a commercial rotorcraft-helicopter and instrument helicopter rating 05.07.02.

2. Prior to an assignment with a medical service, the Rotorcraft pilot in command possesses two thousand (2,000) total flight hours (or total flight hours of at least fifteen hundred (1,500) hours and recent experience that exceeds the operator's pre-hire qualifications such as current air medical and/or search and rescue experience or Airline Transport Pilot(ATP) rated) that include the following:

a. At least twelve hundred (1,200) helicopter flight hours;

b. At least one thousand (1,000) of those hours must be as Pilot-in-Charge (PIC) in rotorcraft;

c. One hundred (100) hours unaided (if pilot is not assigned to a Night Vision Goggles (NVG) base or aircraft);

d. One hundred (100) hours unaided or fifty (50) hours unaided as long as the pilot has one hundred (100) hours aided (if assigned to an NVG base or aircraft); and

e. At least five hundred (500) hours of turbine time.

3. The pilot is readily available within a defined call-up time to ensure an expeditious and timely response.

B. Rotorcraft Mechanic. The EMS Agency shall ensure:

1. The helicopter mechanic possesses at least two (2) years of experience and is a certified air frame and power plant mechanic.

2. The mechanic is trained, and FAA certified to maintain the aircraft designed by the flight service for its aeromedical program.

C. Fixed-Wing Pilot. The EMS Agency shall ensure:

1. The fixed-wing pilot possesses two thousand (2,000) airplane flight hours, prior to assignment with a medical service, that include the following:

a. At least one thousand (1,000) of those hours must be as Pilot-in-Charge (PIC) in an airplane;

b. At least five hundred (500) of those hours must be multi-engine airplane time as PIC. (Not required of single-engine turbine aircraft);

c. At least one hundred (100) of those hours must be night flight time as PIC; and

d. Both pilots in a two-pilot aircraft must be ATP rated.

2. In aircraft that require two (2) pilots, both pilots are type rated for that make and model, and both pilots hold first class medical certificates if the certificate holder operates internationally. The EMS Agency shall ensure both pilots shall have training on Crew Resource Management (CRM), or Multi-pilot Crew Coordination (MCC).

D. Fixed-Wing Mechanic. The EMS Agency shall ensure:

1. The fixed-wing mechanic is a certified air frame and power plant mechanic.

2. The mechanic is trained and FAA certified to maintain the aircraft designated by the flight service for its aeromedical program.

E. The EMS Agency shall ensure that each Patient is evaluated prior to a flight for the purpose of determining that appropriate aircraft, flight and medical crew and equipment are provided to meet the Patient's needs;

F. The EMS Agency shall ensure that all medical crew members are adequately trained to perform in-flight duties prior to functioning in an in-flight capacity; and

G. The EMS Agency providing Air Ambulance services shall retain a Medical Control Physician pursuant to Section 104.

H. Aircraft Medical Crew. The EMS Agency shall ensure:

1. Each Basic Life Support Air Ambulance is staffed with at least one (1) currently certified South Carolina EMT.

2. Each advanced life support Air Ambulance is staffed with at least one (1) currently certified South Carolina Paramedic or South Carolina Flight Nurse as may be required by the Patient's condition.

3. Each special purpose Air Ambulance is staffed with at least one (1) Special Purpose EMT, Paramedic or RN with specialty training, as approved by the Department.

4. Each crew member wears a flame retardant uniform with reflective striping.

5. Each crew member displays a legible photo identification with first name and certification level (for example, pilot, RN, or other) while patient care is anticipated to be rendered.

I. Orientation Program. The EMS Agency shall ensure:

1. All medical flight crew members complete a base level flight orientation program supervised by the EMS Agency’s Medical Control Physician.

2. The flight orientation program shall be of a duration and substance to cover all patient care procedures, including altitude physiology, and flight crew requirements.

**2204. Medical Supplies and Equipment. (II)**

A. Delivering Oxygen. The EMS Agency shall ensure that oxygen is installed according to federal aviation regulations (FAA Part 135.91). The EMS Agency shall ensure that medical transport personnel determine how oxygen is functioning by use of pressure gauges mounted in the patient care area. The EMS Agency shall ensure:

1. Each gas outlet shall be clearly identified.

2. “No Smoking” sign shall be included.

3. Oxygen flow must be stoppable at or near the oxygen source from inside the aircraft or ambulance.

4. The following indicators shall be accessible to medical transport personnel while en route:

a. Quantity of oxygen remaining; and

b. Measurement of liter flow.

5. Adequate amounts of oxygen for anticipated liter flow and length of transport with an emergency reserve must be available for every mission.

6. When the vehicle is in motion, all oxygen cylinders shall be affixed to a wall or floor with crash stable, quick release fittings.

B. Sanitation. The EMS Agency shall ensure that the floor, sides, ceiling and equipment in the patient cabin of the Air Ambulance are a nonporous surface capable of being cleaned and disinfected in accordance with Section 1700.

C. The EMS Agency shall ensure that each BLS level Air Ambulance maintains the following equipment when the Air Ambulance is in use and available for call:

<b><u>SECTION</u></b>	<b><u>ITEM</u></b>	<b><u>QUANTITY</u></b>
	<b><u>AUTOMATIC EXTERNAL DEFIBRILLATOR (AED)</u></b>	
<u>1.</u>	<u>AED: secured and positioned for easy access to Attendants</u>	<u>One (1)</u>
<u>2.</u>	<u>Paddles, pads, and cables – Adult and Pediatric</u>	
	<b><u>SUCTION DEVICE</u></b>	
<u>3.</u>	<u>Portable suction device, age and weight appropriate, with six (6) ounce reservoir</u>	<u>One (1)</u>

4.	<u>Wide-bore tubing, rigid pharyngeal curved suction tip</u>	<u>Two (2)</u>
5.	<u>Sterile, single-use, flexible suction catheter between 6 French and 10 French</u>	<u>One (1)</u>
6.	<u>Sterile, single-use, flexible suction catheter between 12 French and 16 French</u>	<u>One (1)</u>
	<b><u>AIRWAY EQUIPMENT</u></b>	
7.	<u>Nasal Cannulas (NC) – Adult and Pediatric</u>	<u>Two (2) each</u>
8.	<u>Non-Rebreather Mask (NRB) – Adult and Pediatric</u>	<u>Two (2) each</u>
9.	<u>NPA 16 French through 34 French – Adult and Pediatric</u>	<u>One (1) each</u>
10.	<u>Nonmetallic oropharyngeal airways (OPAs): sizes 0-5.</u>	<u>One (1) each</u>
	<b><u>BAG VALVE MASK (BVM) VENTILATION UNITS</u></b>	
11.	<u>Adult hand operated BMV: Valves operate in all weather, and unit is equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the Patient.</u>	<u>One (1)</u>
12.	<u>Pediatric hand operated BMV with safety pop-off mechanism with override capability: Valves operate in all weather, and unit is equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the Patient.</u>	
13.	<u>Neonate hand operated BMV with safety pop-off mechanism with override capability: Valves operate in all weather, and unit is equipped to be capable of delivering ninety to one hundred (90 to 100) percent oxygen to the Patient.</u>	
	<b><u>BANDAGE MATERIAL</u></b>	
14.	<u>ABD pad at least five by nine inches (5” x 9”)</u>	<u>Minimum of two (2)</u>
15.	<u>Individually wrapped four by four inch (4” x 4”) Sterile Gauze Pads</u>	<u>Minimum of fifteen (15)</u>
16.	<u>Individually wrapped Sterile Gauze bandage rolls</u>	<u>One (1) each of three (3) varieties of sizes</u>
17.	<u>Four by four inch (4” x 4”) Commercial Sterile Occlusive Dressing</u>	<u>Two (2) each</u>
18.	<u>Hypoallergenic Adhesive Tape (1”, 2”, 3” Wide)</u>	<u>One (1) each</u>
19.	<u>Large Trauma Bandage Shears</u>	<u>One (1)</u>
20.	<u>Sterile Water or Normal Saline for irrigation</u>	<u>Minimum of 250 ml.</u>
	<b><u>ASSESSMENT TOOLS</u></b>	
21.	<u>Blood pressure sphygmomanometer, cuff, bladder, and tubing – Adult and Pediatric</u>	<u>One (1) each</u>
22.	<u>Stethoscope</u>	<u>One (1)</u>
23.	<u>Pulse Oximeter with numeric reading – Adult and Pediatric</u>	<u>One (1) each</u>
	<b><u>MISCELLANEOUS EQUIPMENT</u></b>	
24.	<u>Labeled Non-sterile, latex-free exam gloves - two (2) sizes</u>	<u>Minimum five (5) pairs each</u>
25.	<u>Commercial antimicrobial and waterless hand cleanser</u>	
26.	<u>EPA recommended Germicidal/viricidal agent or sodium hypochlorite solution - ninety-nine (99) parts water and one (1) part bleach for cleaning equipment.</u>	
27.	<u>Sharps container (fixed or portable) with locking mechanism</u>	<u>One (1)</u>
28.	<u>Flashlights or electric lanterns</u>	<u>Two (2)</u>
29.	<u>Aircraft approved ABC fire extinguisher: fully charged with valid inspection certification.</u>	<u>One (1)</u>

30.	<u>Aircraft approved hand fire extinguisher conveniently located on the flight deck for use by the flight crew.</u>	<u>One (1)</u>
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D. A. Local Medical Control Option (MCO) Items. The EMS Agency shall maintain the following items on each Air Ambulance providing BLS unless the Medical Control Physician declines use of the equipment. The EMS Agency shall ensure the MCO items are incorporated into the agency's Protocols pursuant to Section 104.B.

<u>SECTION</u>	<u>ITEM</u>	<u>QUANTITY</u>
<u>1.</u>	<u>0, 1, 2, 3, 4, 5 masks in conjunction with the ventilation units(disposable or non-disposable types)</u>	<u>One (1) each</u>
<u>2.</u>	<u>Magill forceps, Adult and Pediatric</u>	<u>One (1) each</u>
<u>3.</u>	<u>Blind Insertion Airway Device (BIAD): all age and weight size categories as defined by Food and Drug Administration (FDA). Syringe(s) needed to inflate bulbs shall be included in packaging, if not appropriate size(s) shall be carried by provider.</u>	
<u>4.</u>	<u>Sterile burn sheet</u>	<u>One (1) each</u>
<u>5.</u>	<u>Triangular Bandages</u>	<u>Minimum of two (2) each</u>
<u>6.</u>	<u>Traction-type, Lower extremity splint. Bi-polar or Uni-polar type is acceptable</u>	<u>One (1)</u>
<u>7.</u>	<u>Padded, wooden-type splints: 15" x 3" (or other approved commercially available splints for arm or leg fractures)</u>	<u>Two (2)</u>
<u>8.</u>	<u>Padded, wooden-type splints: 36" x 3" (or other approved commercially available splints for arm or leg fractures)</u>	<u>Two (2)</u>
<u>9.</u>	<u>Long Spine Board: at least 16" x 72". (A folding backboard may be used as a substitute.)</u>	<u>One (1)</u>
<u>10.</u>	<u>Cervical collars: Adjustable or available in sizes of short, regular, or tall. Adult and Pediatric</u>	<u>Minimum of one (1) each</u>
<u>11</u>	<u>Commercially or Premade Head Immobilization Device – Adult and Pediatric</u>	<u>One (1) each</u>
<u>12.</u>	<u>Nine (9) foot straps (one (1) set 10-point spider straps may be used)</u>	<u>Minimum of three (3) each</u>
<u>13.</u>	<u>Obstetrical Kit: Sterile, latex free. (Contains the following: gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressing, towels, perinatal pad, bulb syringe and a receiving blanket)</u>	<u>One (1)</u>
<u>14.</u>	<u>Pulse oximeter with numeric reading – Adult and Pediatric</u>	<u>One (1) each</u>
<u>15</u>	<u>Glucometer or Blood Glucose Measuring Device</u>	<u>One (1)</u>
<u>16.</u>	<u>Eye protection or face shield</u>	<u>One (1) for each medical crew member</u>
<u>17.</u>	<u>Emesis basin</u>	<u>One (1)</u>
<u>18.</u>	<u>Bedpan and urinal</u>	<u>One (1) each</u>

E. Additional Equipment. The EMS Agency shall store and operate all equipment according to the manufacturer's recommendations, and all equipment is subject to inspection by the Department..

F. Advanced Life Support (ALS) Equipment. The EMS Agency shall ensure that each ALS level Air Ambulance maintains all equipment pursuant to Sections 2204.C and 2204.D and the following equipment when the Air Ambulance is in use and available for call:

<b>SECTION</b>	<b>ITEM</b>	<b>QUANTITY</b>
	<b><u>CARDIAC MONITOR</u></b>	
<u>1.</u>	<u>Printable four (4) lead wave form, twelve (12) lead/EKG, SpO2 waveform with numeric reading, and invasive pressure port(s) Printable and Transmittable with invasive pressure monitor ports for adult and pediatric, and neonate if applicable. Secured and positioned so displays are visible to medical attendances.</u>	<u>One (1)</u>
<u>2.</u>	<u>Extra roll of printer paper</u>	<u>One (1)</u>
<u>3.</u>	<u>Internal rechargeable battery pack</u>	<u>One (1)</u>
<u>4.</u>	<u>Extra battery or AC adapter and cord</u>	<u>One (1)</u>
<u>5.</u>	<u>Defibrillator: May be integrated into cardiac monitor module.</u>	<u>One (1)</u>
<u>6.</u>	<u>Paddles and pads – Adult and Pediatric</u>	
<u>7.</u>	<u>Pads - Neonatal sizes if transports are conducted</u>	
<u>8.</u>	<u>Transcutaneous Pace – Adult and Pediatric capabilities (stand-alone unit or integrated into cardiac monitor modular)</u>	
	<b><u>ADVANCED AIRWAY AND VENTILATORY SUPPORT EQUIPMENT</u></b>	
<u>9.</u>	<u>Laryngoscope handle with extra set of batteries and bulbs</u>	<u>One (1)</u>
<u>10.</u>	<u>Laryngoscope blades – 0-4 Miller, 1-4 Macintosh - Adult/Pediatric/Neonate sizes</u>	<u>One (1) each</u>
<u>11.</u>	<u>Disposable ET tube sizes 2.5 through 8mm with stylets sized for each tube</u>	<u>One (1) each</u>
<u>12.</u>	<u>Water soluble lubricating jelly</u>	<u>Four (4) each</u>
<u>13.</u>	<u>Magill forceps – Adult and Pediatric</u>	<u>One (1) each</u>
<u>14.</u>	<u>Blind Insertion Airway Device (BIAD) – Age and weight sizes as defined by FDA. Syringe(s) needed to inflate bulbs shall be included in packaging, if not, appropriate size(s) carried by provider.</u>	
<u>15.</u>	<u>Positive End-Expiratory Pressure (PEEP) valve (may be incorporated into BVMs) – age appropriate</u>	
<u>16.</u>	<u>Mechanical ventilator and circuit - age/weight appropriate, including neonate, if applicable, includes measurement of:</u> <ul style="list-style-type: none"> <li><u>i. Fraction of inspired oxygen (FiO2);</u></li> <li><u>ii. Tidal volume (Vt);</u></li> <li><u>iii. Respiratory rate (RR) or frequency; and</u></li> <li><u>iv. Positive End-Expiratory Pressure (PEEP).</u></li> </ul>	
<u>17.</u>	<u>Continuous Positive Airway Pressure (CPAP), able to be incorporated within the mechanical ventilator mechanical and with appropriate setting and attachments for adult, pediatric, and neonate Patients, if applicable</u>	
<u>18.</u>	<u>Bi-level Positive Airway Pressure (BiPap), able to be incorporated within the mechanical ventilator mechanical and with appropriate setting and attachments for adult, pediatric, and neonate Patients, if applicable</u>	

19.	<u>Printable waveform End-tidal CO2 continuous monitoring capabilities. May be incorporated within cardiac monitor modular</u>	
	<b><u>VENOUS ACCESS</u></b>	
20.	<u>Intravenous catheters 14g-20g</u>	<u>Two (2) each</u>
21.	<u>Intravenous catheters 22g-24g for pediatric/neonate transport</u>	<u>Two (2) each</u>
22.	<u>Intraosseous needles – Adult and Pediatric (Neonate is applicable)</u>	<u>One (1) each</u>
23.	<u>Macro drip sets, 10-20gtts/mL</u>	<u>Minimum of two (2)</u>
24.	<u>Independent multi-channel infusion pump that allows fluid and medications to be administered at different rates, sequentially. Capable of displaying the infusion rate, volume infused, and volume remaining</u>	<u>Minimum of two (2)</u>
25.	<u>IV pump internal rechargeable battery pack</u>	<u>One (1)</u>
26.	<u>IV pump AC adapter and cord</u>	<u>One (1)</u>
27.	<u>IV pump tubing</u>	<u>Two (2) sets</u>
28.	<u>18g - 20g needles at least one and one-half inch length</u>	<u>Two (2) sets</u>
29.	<u>23g - 25g needles at least one and one-half inch length</u>	<u>Two (2) sets</u>
30.	<u>1mL Syringes</u>	<u>Two (2)</u>
31.	<u>3-5 mL Syringes</u>	<u>Two (2)</u>
32.	<u>10-20 mL Syringes</u>	<u>Four (4)</u>
33.	<u>IV start kits containing latex free tourniquet, antiseptic solution, and latex free catheter dressing.</u>	<u>Minimum of three (3)</u>
	<b><u>INTRAVENOUS FLUIDS</u></b>	
34.	<u>Intravenous fluids: may be combination of sizes 100mL-1000mL variety such as Lactated Ringers, Normal Saline, D5W. Capability to be administered warm.</u>	<u>2000 mL total</u>
	<b><u>MISCELLANEOUS EQUIPMENT</u></b>	
35.	<u>Current color-coded Pediatric weight and length-based drug dose chart</u>	<u>One (1)</u>
36.	<u>Alcohol or iodine prep pads for preparing IM injections</u>	<u>Minimum of six (6)</u>

G. Local Medical Control Option (MCO) Items. The EMS Agency shall maintain the following items on each Air Ambulance providing BLS unless the Medical Control Physician declines use of the equipment. The EMS Agency shall ensure the MCO items are incorporated into the agency’s Protocols pursuant to Section 104.B.

<b><u>SECTION</u></b>	<b><u>ITEM</u></b>	<b><u>QUANTITY</u></b>
1.	<u>Other ET tube sizes – MCO</u>	
2.	<u>Intravenous arm boards for pediatric Patients</u>	<u>Two (2) each</u>

**2205. Special Purpose Air Ambulances. (II)**

The EMS Agency shall ensure that each Special Purpose Air Ambulance maintains all equipment pursuant to Sections 2204.C, 2204.D, and 2204.F when the Air Ambulance is in use and available for call.

**2206. Medication and Fluids for Advanced Life Support Air Ambulances. (II)**



The EMS Agency shall ensure medications and fluids approved by the Department for possession and administration by EMTs, AEMTs, and Paramedics and specified by the Medical Control Physician are carried on the Air Ambulance. The EMS Agency shall ensure that medications not included on the approved medication list for Paramedics are only carried on board the Air Ambulance if the EMS Agency has a written Protocol that includes delineation of administration only by a registered nurse or physician. The EMS Agency shall ensure:

A. Medications are easily accessible;

B. Controlled substances are in a double locked system and kept in a manner consistent with state and federal controlled substances laws and regulations;

C. Storage of medications allows for protection from extreme temperature changes within the U.S. Pharmacopeia guidelines, if environment deems it necessary; and

D. If there is a refrigerator on the Air Ambulance for medications, a temperature monitoring and tracking policy shall be established and implemented, and the refrigerator shall be used and labeled “for medication use only.”

#### **2207. Rescue Exception. (II)**

The EMS Agency may utilize an aircraft without a permit for occasional non routine missions, such as the rescue and transportation of victims or Patients who may or may not be ill or injured from structures, depressions, water, cliffs, swamps or isolated scenes when the rescuers or EMS Agency present at the scene determines the preferred method of rescue and transportation incident thereto due to the nature of the entrapment, condition of the victim, existence of an immediate life-threatening condition, roughness of terrain, time element and/or other pertinent factors:

A. Provided that after the initial rescue, an EMT, AEMT, or Paramedic accompanies the victim-patient en-route with the necessary and appropriate EMS supplies needed for the en-route care of the specific injuries or illness involved.

B. Provided the aircraft is of adequate size and configuration to effectively make the rescue and to accommodate the victim-patient, Attendant(s) and equipment.

C. Provided reasonable space is available inside the aircraft for continued victim-patient comfort and care.

D. Provided a permitted aircraft is not available within a reasonable distance response time; and

E. Provided the victim-patient is transferred to a higher level of EMS ground transportation for stabilization and transport if such ground unit is available at a reasonably safe landing area.

**SECTION 2300 – [RESERVED]**

**SECTION 2400 – [RESERVED]**

**SECTION 2500 – [RESERVED]**

**SECTION 2600 – [RESERVED]**

**SECTION 2700 – SEVERABILITY**

In the event that any portion of this regulation is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of this regulation, and they shall remain in effect as if such invalid portions were not originally a part of this regulation.

**SECTION 2800 – GENERAL**

Conditions that have not been addressed in this regulation shall be managed in accordance with the best practices as interpreted by the Department.

## **ATTACHMENT B**

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

#### **CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-61-10 et seq.

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

The Department of Health and Environmental Control (“Department”) proposes amending R.61-7, Emergency Medical Services. Interested persons may submit comment(s) on the proposed amendments to the Bureau of EMS and Trauma; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [healthregcomm@dhec.sc.gov](mailto:healthregcomm@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on March 30, 2020, the close of the draft comment period.

#### **Synopsis:**

Pursuant to R.61-7, Emergency Medical Services, the Department is the central authority establishing an emergency medical services program for the state and regulates general licensing, certification, inspection, and training procedures. The Department proposes amending R.61-7 to update and revise definitions and requirements regarding obtaining licensure, inspections, personnel, enforcement, ambulance permits, training, vehicles, medical equipment, patient care, Do Not Resuscitate (“DNR”) Orders, record maintenance and retention, and licensure standards. The Department may add language to incorporate current provider-wide exceptions applicable to emergency management services.

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

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

**ATTACHMENT C**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**R.61-7, *Emergency Medical Services***

**As of the (Date), close of the Notice of Drafting comment period:**

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
1. Ryan Eubanks, Fire Chief, Croft Fire District	General	Partially Adopted. Section 106
<b>COMMENT:</b> Request is made to make the Rapid Responder a separate section within 61-7 as is found with air transport units. Consideration should also be taken with specialty teams (Task Force teams, HazMat, etc.)		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
2. Michael Marling, Director, Pickens County EMS	General	Not Adopted. Skills and protocols are based on statutory requirements rather than national standards.
<b>COMMENT:</b> As Director of EMS, I am the spokesperson for the service.		
1. DHEC consider to allow AEMTs to perform all the skills based on national standards to include intubation. With the current shortage of Paramedics on the national level, this would impact a lot of services. With the prevalence of video laryngoscopy, this skill could be completed at the AEMT level with accurate documentation.		
2. Consider a protocol for service animals to include definition of service animal, and what can and cannot be asked of a patient that has a service animal based on national regulations.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
3. Jean Gordon	General	Acknowledged
<b>COMMENT:</b> Continuum never worked properly for us. Unlike Zoll Hosted/WEB PCR, It is very difficult to maneuver through, language is distorted and most searches after weeks show none found.		
We lost access eventually last year and called several times and was told that the system was still being worked on.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
4. Francis Kevin Crosby, Medical Compliance & Quality Assurance Officer, Greenville City Fire Department	General	Partially adopted. Section 106
<b>COMMENT:</b>		
1. It is our recommendation to separate the rapid responder section of 61-7 and make it a separate section similar to ATU.		
a. Also to consider a section for specialty teams		
2. Changes to the number of personnel needed on a roster was reduced from five (5) to three (3) for rapid responder agencies only.		

3. Allowing agencies to temporarily operate above their agency license with medical control approval, when staffing permits or for special events or special operations such as HazMat, rescue, etc. as long as the agency meets equipment guidelines listed in the regulation.
4. An addition to include volunteer agency requirements of responding to at least 50% of requested runs at their licensure level for rapid responder agencies only.
5. Equipment number reductions and removal of traction splints, spinal equipment (excluding c-collars). Sizes of equipment would be medical control option (suction catheters, OPAs, NPAs, etc)
6. Changes to EMT instructor requirements to allow EMTs to teach EMT courses, not just paramedics. Changes also made to the EMT instructor renewal to include EMTs, not just paramedics

NAME	SECTION	DEPARTMENT RESPONSE
5. Captain Seth F. Croutcher, EMS Logistics Supervisor, Charleston County EMS	General	Not Adopted Exceptions are not part of the regulation. Providers may submit a variance pursuant to Section 121

**COMMENT:** Have an exception for Firetrucks, non-ambulance type vehicles that provide first response, they do not need to carry the same amount of supplies as an ambulance. This leads to more money being spent on supplies and increase waste. For in stance some units have a DHEC bag, a bag that never gets used that has all the extra stuff on it needed in case DHEC Shows up.

While I understand minimums, something in writing where a truck in service and at a hospital. Like if we put 4000 cc of fluid on a unit and they make a trauma call and use 2000, and then they are inspected at a hospital and only have 2000 they will not be penalized. we currently stock 6000 due to us being fearful of being caught with under 4000 cc. While i understand inspectors or reasonable. It would be better if there was a provision. It will help with supply management/ordering and ultimatly save money in the long run.

NAME	SECTION	DEPARTMENT RESPONSE
6. Thomas Martel, MD, Horry County EMS Medical Control, Myrtle Beach Fire Department Medical Control	200.V	Adopted

**COMMENT:** Section 200, Definitions, V. Medical Control Physicians. Changes:

V. Medical Control may be provided by an Off-Line Medical Control Physician through use of protocols (guidelines of care), training, and policies and procedures for use in pre-hospital patient care or by an On-Line Physician by providing direct physician orders to the EMS attendants for pre-hospital care or for facility transfers and transports.

1. Off-Line Medical Control Physician: Provides services outlined in section 402.
2. On-Line Medical Control Physician: The physician who directly communicates with EMS attendants regarding appropriate patient care en-route, on-scene, or for facility transfers and transports.

Remove language regarding “who is responsible for the care of the patients by the providers medical attendants”. This language pushes medical control physicians under the bus. No operating room director can be responsible that every operation goes off perfectly without complications. No Off-Line Physician can be responsible for the care provided by 200+ EMS attendants who are employed by a separate entity who work under protocols written by SC DHEC. This is unreasonable, unacceptable language, and impossible for a medical control physician to control. No sane physician should accept this responsibility.

No law should require it. They should be responsible for having protocols and policies and for having a QI process in place but can't be responsible for care provided by medics 24/7.

NAME	SECTION	DEPARTMENT RESPONSE
7. Thomas Martel, MD, Horry County EMS Medical Control, Myrtle Beach Fire Department Medical Control	200.Y	Not Adopted This definition is not included as language in the body of the regulation, and therefore not added to the definitions section.

**COMMENT:** Section 200, Definitions, Y. Nation Registry of EMT: Addition

Y. EMS providers are licensed through the state of South Carolina.

A certification comes from a non-governmental organization, recognizes an individual has met predetermined qualifications of that organization. These are provided by private agencies, are voluntary, and are not required to work by the state.

If an occupation has a statutorily or regulatory defined scope of practice, that only allows individuals authorized by the state to perform those functions, then the authorized individuals are licensed by the state.

NAME	SECTION	DEPARTMENT RESPONSE
8. Thomas Martel, MD, Horry County EMS Medical Control, Myrtle Beach Fire Department Medical Control	402	Adopted

**COMMENT:** Section 402, Medical Control Physicians

Remove the words, “standing orders” (protocols are guidelines of care, not orders)  
 Remove the words “standing orders” and replace them by the word “protocols” (protocols are guidelines of care, not orders)  
 Remove the words “standing orders within 10 days” and replace by the words “protocols within 30 days”.

Additional documentation should be added:

EMS medical attendants do not work under the license of the medical control physician, they work under the license and certification provided to them by the state.  
 EMS control physicians are not employed by the EMS provider agency. They work as independent contractors to provide medical control services outlined above.  
 EMS control physician do not bill patients for physician care provided by the EMS medical attendants.  
 EMS control physicians do not provide day to day services or management such as hiring, firing, staffing, or ambulance service or maintenance.  
 EMS control physicians should be licensed, and currently practicing medicine as a physician.  
 Medical Control may adopt state written policies, procedures, and protocols. The protocols may be amended by local medical control.  
 EMS control should be recognized as a community service. As such, they should be provided malpractice protection and be held harmless by acts committed by EMS attendants. As long as they work in good faith, have state approve protocols, policies, and procedures in place, provide a QI process, and are involved in education of medics they have met requirements of the position.

NAME	SECTION	DEPARTMENT RESPONSE
9. James Flynn, EMS Operations Coordinator, Landrum Area Fire and Rescue District	403	Not Adopted The Department regulates EMS Agencies for which drivers are hired and does not regulate drivers.
<p><b>COMMENT:</b> Section 403 Non -Credentialed Ambulance Operator or Driver.</p> <p>For a driver to operate on a 911 response ambulance it should be taken into consideration that they have at least a valid CPR &amp; Basic First Aid Certification to be classified as a driver. We have had incidents where a new or inexperienced EMT responds to 911 calls and have multiple patients and the driver cannot provide any medical assistance to the injured patients. This should also be linked to Section 411 B. Our agency as a Rapid Responder has arrived on scene and established patient care when a Volunteer Squad arrives on scene only staffed with a driver with no or limited medical training and the Volunteer agency EMT arrives after the transport unit gets on scene.</p>		
NAME	SECTION	DEPARTMENT RESPONSE
10. Ryon A. Watkins, Chief, Florence County EMS	404.C	Partially Adopted The definition requested to be added is not relevant to the regulation.
<p><b>COMMENT:</b> Many EMS agencies in South Carolina frequently have more requests for service than they have ambulances to send. As a result, EMS supervisors need reasonable, consistent and defensible means of prioritizing (triaging) said requests and determining the order in which ambulances are dispatched. Without such means, requests for service are sometimes dispatched in the order that they are received or at the discretion of supervisors who may have little credible information to guide their decision making. In these cases, there is no consistent way to ensure that those who are likely to be very ill or seriously injured receive priority over others who likely have minor injuries or minor illnesses. With regard to ambulance response times, current regulation (61-7, Section 404 C.) does not differentiate between high priority calls for service and low priority calls for service. In summary, the current response time requirement is the same for a splinter in a finger as it is for a cardiac arrest.</p> <p>In an effort to address the issues outlined immediately above, several EMS agencies in South Carolina have chosen to utilize nationally recognized emergency medical dispatch (EMD) programs to triage requests for service. In summary, those requests determined to be low priority may not be held to the same response time standard as high priority requests. Many EMS agencies in South Carolina find structured EMD programs to be invaluable. Providers that don't utilize EMD to prioritize requests for service frequently tie up multiple ambulances on low priority calls, leaving few, if any, ambulances available for high priority situations. Revising or amending Section 404 C would be very beneficial to 911 agencies that: 1) have relatively few ambulances available, and 2) receive a substantial number of requests for service that are low priority (minor medical problems or minor injuries).</p> <p>Amending or revising this section would be consistent with trends in other states with regard to dispatching ambulances to requests for service. Generally speaking, an ambulance is dispatched to high priority calls immediately and a low priority call may be held for a period of time. As a result, the likelihood that an ambulance will be immediately available for a high priority call will increase significantly.</p> <p>In no way am I suggesting that EMD programs be required by the State. I am suggesting that EMS systems that elect to have and utilize EMD programs be exempt from the response time requirements currently outlined in Section 404 C.</p> <p>Suggested Amendment / Revision to Section 404 C - Providers whose requests for service are regularly</p>		

and routinely prioritized by professional telecommunicators utilizing a nationally recognized, third party emergency medical dispatch program are exempt from the response time requirements noted in Section 404C. The Department will, upon request, be furnished with policy and procedure that document the provider's approach to prioritizing and response to requests for service and for requesting mutual aid. Also upon request, the Department will be furnished with the business agreement between the nationally recognized third party emergency medical dispatch company and the provider.

In the event that Section 404 C is revised or amended, a definition for emergency medical dispatch will need to be added to Section 200 (Definitions).

I suggest: Emergency Medical Dispatch – a system utilized by trained telecommunicators in emergency medical services dispatch centers in which structured questions are posed to the caller in an effort to determine the extent of an individual's illness or injury. The system generates instructions that are communicated to the caller and provides EMS supervisors with information that is helpful in prioritizing requests for service.

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
11. Ryan Eubanks, Fire Chief, Croft Fire District	410	Not Adopted Regulatory requirement remains five certified EMT's



**COMMENT:** A. Personnel assigned to Rapid Responder duty must be currently certified EMTs with no less than three (3) EMTs associated with the provider. The certification level of the responder must coincide with the agency's level of licensure. A rapid responder agency may temporarily operate above their licensure level with the agencies medical control physician approval, while meeting minimum required equipment levels found in section XXX. If the Rapid Responder agency is requested to respond, an EMT must respond on calls eighty percent (80%) of the time. For volunteer units (services not utilizing paid personnel) requested to respond, an EMT must respond on calls fifty percent (50%) of the time. B. Must have staffing patterns, policy and procedures, to ensure that a Rapid Responder unit is en route with at least one (1) EMT to all emergent calls within five (5) minutes. Volunteer units (services not utilizing paid personnel) without onsite personnel must have staffing patterns, policy and procedures to ensure that a Rapid Responder unit is en route with at least one (1) EMT to all emergent calls within ten (10) minutes. C. The Department will, upon request, be furnished with staffing patterns, policy and procedures to ensure compliance with the en route times noted in Section 410.B. D. The provider maintains records that include, but are not limited to, approved patient care report forms, employee/member rosters, time sheets, call rosters, training records and dispatch logs that show at least time call received, type call and time unit is en route. Such records are to be available for inspection by the Department with copies furnished upon request.

#### Section XXX. EMT Rapid Responder Equipment.

A. All licensed Rapid Responder agencies operating within the state shall carry equipment required in the following sections. Protocols submitted must indicate areas where Medical Control Option (MCO) equipment is being authorized. B. The Rapid Responder agency's vehicle must be properly marked as to identify the vehicle as an emergency vehicle. C. The Rapid Responder agency shall follow the exact equipment cleanliness guidelines as outlined for transporting providers in Section 800. D. All Rapid Responder vehicles will be equipped with at least the following items: 1. Suction Devices; 1. Portable suction device with regulator with at least a six (6) ounce reservoir. 2. Wide-bore tubing, rigid pharyngeal curved suction tip; tonsil and flexible suction catheters, sizes are MCO for Rapid Responder agencies 2. Oxygen Equipment; 1. Portable Oxygen Equipment: Minimum "D" size (360 Liter) cylinder, two (2) required (one (1) in service and one (1) full and sealed). Liter flow gauges shall be non-gravity, dependent type. Additionally, when the vehicle is in motion, all oxygen cylinders shall be readily accessible and securely stored. 3. Single-use, individually wrapped, non-rebreather masks and cannulas in adult and pediatric sizes shall be provided (two (2) each). 4. A "No Smoking" sign shall be prominently displayed in the oxygen compartment. 5. Pulse oximeter with adult and pediatric capabilities. 3. Bag Mask Ventilation (BVM) Units; 1. One (1) adult, one (1) pediatric, one (1) infant: hand-operated. Valves must operate in all weather, and unit must be equipped to be capable of delivering ninety to one hundred percent (90- 100%) oxygen to the patient. BVMs must include safety pop-off mechanism with override capability. Three (3) additional masks sizes small adult, toddler, and neonate shall be carried. 4. Nonmetallic Oropharyngeal (OPA) (Berman type) and Nasopharyngeal Airways (NPA); 1. All airways shall be clean and individually wrapped. 2. "S" tube-type airways may not be substituted for Berman type airways. 3. One each of the following sizes: a. NPA: 14 Fr-34 Fr, sizes are an MCO for all Rapid Responder licenses. b. OPA sizes are an MCO for all Rapid Responder licenses 5. Bite sticks commercially made (clean and individually wrapped); 6. Four (4) sterile dressings (minimum size five (5) inches by nine (9) inches); 7. Twelve (12) sterile gauze pads four (4) inches by four (4) inches; 8. Five (5) bandages, self-adhering type, minimum three (3) inches by five (5) yards. Bandages must be individually wrapped or in clean containers; Formatted: Indent: Before: 0.5" Formatted: Indent: First line: 0.5" Formatted: Indent: Before: 0.5", First line: 0.5" Formatted: Not Highlight Formatted: Not Highlight 9. A minimum of two (2) commercial sterile occlusive dressings, four (4) inches by four (4) inches, commercially available chest seals may be; 10. Adhesive Tape, hypoallergenic, one (1) inch, two (2) inch, and three (3) inches wide; 11. Burn sheets, one (1), sterile; 12. Splints; 2. Padded type, two (2) each, three (3) feet long, of material comparable to four-ply wood for coadaptation splinting of the lower

extremities. (Commercially available leg splints such as cardboard, metal, pneumatic, vacuum, or plastic may be substituted.) 3. Padded wooden type, two (2) each, fifteen (15) inches by three (3) inches, for fractures of the upper extremity. Commercially available arm splints such as cardboard, metal, pneumatic, vacuum, or plastic may be substituted.) . 13. Spinal immobilization devices; 4. Cervical collars to accommodate the infant, child, adolescent, and adult sizes. Collars must be manufactured of semi-rigid or rigid material. Commercially available adjustable collars may be substituted, must carry two (2) of each child adjustable and adult adjustable. 14. Three (3) each triangular bandages; 15. Two (2) blankets; 16. Bandage shears, large size or trauma shears; 17. Obstetrical kit, sterile. The kit shall contain gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, bulb syringe and a receiving blanket for delivery of infant; 18. Blood pressure manometer, cuff and stethoscope; 1. Blood pressure set, portable, both pediatric and adult. 2. Stethoscopes (adult and pediatric capable). 19. Emesis basin or commercially available emesis container; 20. Two (2) functional battery operated, hand-carried flashlights or electric lanterns, suitable for illuminating both a localized work area or a walkway. Penlights do not meet this requirement; 21. Minimum of one (1) fire extinguisher, CO2 or dry chemical, five (5) pound capacity, type ABC; 22. Working gloves, two (2) pair with leather palms and reflective vests that meet American National Standard (ANSI 201) for High Visibility Public Safety Vests for each crew member; 23. Minimum of 1000 cc of sterile water or normal saline solution for irrigation; 24. Protective head gear and eye protection devices (minimum two (2) each) must be carried on each ambulance. Standard fire helmet face shield is not acceptable; Formatted: Not Highlight Formatted: Indent: Before: 0.5" Formatted: Not Highlight Formatted: Not Highlight Formatted: Not Highlight Formatted: Indent: Before: 0.5" Formatted: Indent: First line: 0.5" 25. Latex-free personal protective equipment including gloves, masks, gowns and eye shields; 26. Automated External Defibrillator (AED) unless staffed by ALS personnel who are utilizing a manual monitor or defibrillator. Monitor may be utilized by BLS personnel if "AED Mode" is an available setting. The AED shall have pediatric capabilities, including child sized pads or a dose attenuator with adult pads; 27. Blind Insertion Airway Devices (BIADs) such as dual lumen, iGel or LMA airways, age and weight appropriate; are an MCO for all Rapid Responder licenses. 28. Glucometer with a minimum of five (5) test strips (Medical Control Option); 29. One (1) commercially available arterial tourniquet device; and 30. Five (5) adhesive bandages.

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
12. Ryan Eubanks, Fire Chief, Croft Fire District	703	Adopted
<p><b>COMMENT:</b> Equipment in addition to Section 703 to be carried by EMT-I or AEMT Rapid Responders: 1. Two (2) each, fourteen (14), sixteen (16), eighteen (18), twenty (20), and twenty-two (22) gauge IV cannulas; 2. Two (2) macro drip sets; 3. Two (2) micro drip sets; 4. One (1) sharps container; 5. A minimum of two (2) liters of normal saline or other appropriate IV solution; 6. Three (3) IV tourniquets; 7. Twelve (12) each, alcohol and iodine preps for preparing IV injection sites; 8. Five (5) adhesive bandages; and 9. Such medications or fluids as may be approved by the Department for possession and administration by EMTs trained and certified in their use and authorized by the provider's Medical Control Physician, as documented to the Department.</p> <p>Equipment in addition to Section 703 to be carried by Paramedic Rapid Responders: 1. Rapid Responders providing ALS must be equipped with a battery powered (DC) portable monitor/defibrillator unit, appropriate for both adult and pediatric patients with ECG printout and capable of transcutaneous pacing. The monitor-defibrillator equipment utilized by the service must have the capability of producing a hard copy of the patient's ECG and performing continuous monitoring of end tidal carbon dioxide (EtCO<sub>2</sub>) output; Formatted: Don't add space between paragraphs of the same style, Line spacing: 1.5 lines 2. Such medications or fluids as may be approved by the Department for possession and administration by EMTs trained and certified in their use and authorized by the provider's Medical Control Physician, as documented to the Department; 3. As an MCO, ALS Rapid Responders may carry the following equipment: a. Laryngoscope handle with batteries; a. Laryngoscope blades, adult, child, and infant sizes; 1. 0-4 Miller. 2. 1-4 Macintosh. b. One (1) each disposable endotracheal tubes sizes as well as intubation stylettes sized for each tube; 1. 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, 5.5 mm cuffed or uncuffed. 2. 6.0, 6.5, 7.0, 7.5, 8.0 mm. 5. Portable sharps container; 6. ALS Rapid Responder agencies not providing laryngoscopic intubation must carry age and weight appropriate BIADs for airway management. 7. Any ALS agency not performing laryngoscopic intubations, and only providing BIADs for airway management, is not required to provide continuous monitoring of end tidal carbon dioxide (EtCO<sub>2</sub>) output.</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
13. James Flynn, EMS Operations Coordinator, Landrum Area Fire and Rescue District	703	Acknowledged
<p><b>COMMENT:</b> Section 703 EMT Rapid Responder Equipment</p> <p>As a Rapid Responder Agency we would ask that this section be reviewed. Some of the equipment that is required is difficult to place on a Fire Engine. The thought is that the equipment can be optional with the MCO for the agency making the decision on what should be carried. We understand that there has to be a minimum standard that we all need to follow. Items such as the padded splints, traction splints, and long spine boards are difficult to carry on the Engine.</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
14. Mark Self, Executive Director, Pee Dee Regional EMS	806.D	Adopted.
<p><b>COMMENT:</b> 806 D- Tonsil Tip suction catheters need not be sterile (there is nothing sterile in the mouth.)</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
15. Mark Self, Executive Director, Pee Dee Regional EMS	807.B	Adopted.
<p><b>COMMENT:</b> Remove. No one is carrying PASG now.</p>		

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
16. Ryan Eubanks, Fire Chief, Croft Fire District	907.F.3	Adopted
<b>COMMENT:</b> F. To be certified as an EMT instructor, all new candidates must meet the following requirements: 3. Possess a current State and NREMT EMT certification that is equivalent to or is greater than the level of course instruction as defined by the course outline		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
17. Ryan Eubanks, Fire Chief, Croft Fire District	907.G.2	Not Adopted Submitting application is consistent with other Departmental regulations.
<b>COMMENT:</b> G. Instructor certificates may be renewed by submission of the following: 2. A copy of a current South Carolina and NREMT EMT certification;		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
18. Thomas Martel, MD, Horry County EMS Medical Control, Myrtle Beach Fire Department Medical Control	1200.C	Adopted?
<b>COMMENT:</b> Section 1200, Air Ambulances, C, 2 , specialty Purpose Air Ambulance last sentence change.  It is the responsibility of the providers Medical Control Physician to ensure ....should be changed to it is the responsibility of the On-Line Medical Control Physician (the transferring physician) to ensure..... EMTALA law requires the transferring physician (on-line medical control) to select an appropriate vehicle for transfer, to provide any extra equipment or medications needed for safe transfer, to select the destination and to contact an accepting physician.		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
19. Mark Self, Executive Director, Pee Dee Regional EMS	1400	Not Adopted Noth documents are required by statute.
<b>COMMENT:</b> Remove section 1400 Do Not Resuscitate and replace with POST legislation as there needs to be only one directive for end of life care that all providers need to know.		

**ATTACHMENT D**

**SUMMARY OF ADVISORY COUNCIL MEMBER COMMENTS AND DEPARTMENT RESPONSES**

*R. 61-7, Emergency Medical Services*

<b>Section</b>	<b>Comment</b>
101, Sub-Q	Please define EMSIS. I am familiar with PreMis and NEMSIS, but not EMSIS.
<b>Department Response: Term was removed from regulation</b>	
<b>Section</b>	<b>Comment</b>
101, Sub-X	Very weak definition of Flight Nurse
<b>Department Response: Acknowledged</b>	
<b>Section</b>	<b>Comment</b>
101, Sub-AA	EMT-I (EMT-Intermediate) is no longer a recognized level of certification in South Carolina.
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
103, Sub-B 4	Statement is incomplete. "used to designate applicant's;"
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
105, Sub-A. 2	With regard to ambulance drivers: Are individuals with an out of state driver's license prohibited from driving an ambulance in South Carolina? What about individuals who work in South Carolina but may live and are licensed to drive in a border state (NC, GA, etc.)?
<b>Department Response: Clarification made in this section</b>	
<b>Section</b>	<b>Comment</b>
107, Sub-B. 1	The current version of this regulation allows an agency to be en route to emergent responses within 5 minutes. As drafted, the proposed document reduces the en route time to 2 minutes. This is unreasonable and oppressive in today's EMS climate. Resources, to include staffed ambulances, are precious and call volumes are high, especially among the services that I represent on the Advisory Council and in the South Carolina EMS Association. EMS providers employed by many 911 EMS agencies that operate in urban and sub-urban areas run one call after the next for their entire shift, with little to no time in between. A 2 minute en route time is not reasonable or realistic in high volume 911 EMS systems. Please consider leaving en-route times for emergency responses at 5 minutes, as opposed to the 2 minute en route time currently included in the draft. I'm confident that EMS agency leadership will ensure that staffed ambulances are en route to emergency responses absolutely as quickly as possible.
<b>Department Response: Not Adopted. Reponse times a critical for patient care.</b>	
<b>Section</b>	<b>Comment</b>

107, Sub-B. 4	<p>This section allows a 10 minute en route time for unscheduled, non-emergent responses.</p> <p>The reality for many busy 911 EMS systems in our state - especially those of us that use nationally recognized emergency medical dispatch programs to prioritize / triage our calls for service - is that we are dispatched to a high volume of non-emergent calls for service.</p> <p>Supervisors are constantly working to provide a timely response to all calls (both high priority and low priority), while keeping some ambulances available for high priority, time sensitive incidents.</p> <p>In my experience, significant effort must be put forth by supervisors (EMS supervisors and / or Dispatch supervisors – depending on the service) to ensure that too many of an agency’s ambulances are not tied up on low priority calls. Obviously when the ambulances are committed to low priority calls, they are unavailable to handle time-sensitive emergencies quickly and efficiently.</p> <p>Please consider increasing the en route time to non-emergent responses from 10 minutes to 60 minutes. Doing so may increase the en route time to a patient with a stubbed toe while, at the same time, reducing the en route time for victims of stroke, S-T elevation myocardial infarction, severe trauma, etc.</p> <p>The notion of having mutual aid agreements in place to handle non-emergent responses is out of touch with EMS in South Carolina today. It is unreasonable and impractical to ask a 911 agency in a neighboring county to cover a stubbed toe call that may be 20-30 miles away – just to comply with the 10 minute en route time requirement.</p> <p>In summary, and in my opinion, increasing the allowable en route time from 10 minutes to 60 minutes for non-emergent responses will increase the likelihood that a 911 agency will have an ambulance available to dispatch to a time-sensitive emergency.</p> <p>As an EMS Chief, I would rather explain why it took one of my ambulance 45 minutes to get to a stubbed toe call than I would explain why it took us 45 minutes to get to a cardiac arrest.</p>
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**Department Response: Not Adopted.**

<b>Section</b>	<b>Comment</b>
107, Sub-B.4	<p>Please consider defining “PSAP” in the Definitions section.</p> <p>How does this apply to unscheduled, non-emergent responses that are not routed through a public safety answering point? (Example: an inter-facility transport dispatched to a private ambulance company)?</p>

**Department Response: Adopted**

<b>Section</b>	<b>Comment</b>
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114, Sub-D	<p>The requirement for every certified EMT to have his / her credential in their possession while working and providing patient care is prudent and reasonable. In most cases, I suspect said credential is in a wallet or kept in a relatively secure place.</p> <p>I question the notion of all certified EMTs displaying their actual certificate on their person, for anyone and everyone to see, while providing patient care. What other profession displays their government issued certificate or license on their body while they are working? Police officers and firefighters don't do this. Healthcare workers don't do this.</p> <p>The idea of every certified EMT (and driver, for that matter) having a name tag or other means of identifying them and their certification is prudent and reasonable. The idea of affixing a government issued certification card to one's body, especially in the EMS environment, is not prudent or reasonable.</p> <p>If this requirement were to be included in the regulation as drafted, I suspect that DHEC will need one or two employees to do nothing but print new and replacement certification cards.</p>
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
118, Sub-B. 1	Please consider leaving the first two sentences as-written. Please consider eliminating the remainder of that subsection and replace with "Candidates will meet the current NREMT Psychomotor examination guidelines for successful completion." Doing so will not require a regulation change if the NREMT changes their policies / procedures.
<b>Department Response: Not Adopted</b>	
<b>Section</b>	<b>Comment</b>
118, Sub-B. 2	Please consider eliminating the verbiage pertaining to "nine skills" and replacing it with "all required testing skills".
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
118	<p>(Training Skills)</p> <p>There seems to be a numbering sequence error. Section 118, also on page 21, is titled "Certification Examinations".</p> <p>It appears that there are two sections identified as "118" ("Certification Examinations" and "Training Programs"). If this is the case, the subsequent section numbers on the subsequent pages are wrong /</p>
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
122, Sub-B.1	Please consider deleting the word "Paramedic". Paramedic certification is not currently required for Advanced EMT and EMT instructors.
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>

400, Sub-12. C	<p>The content of this section was not addressed in the existing regulation. It appears to be new.</p> <p>The idea that DHEC would mandate EMS agencies to review their policies and procedure at least every two years seems oppressive to me. I do not disagree that doing so is a good and prudent practice, but I do think that mandating such a review is a bit much. This is the type of thing that I would expect to see from an entity that accredits ambulance services or a requirement for a “model” EMS agency. Requiring policy and procedure review every two years is, in my opinion, excessive.</p>
<b>Department Response: Not Adopted. Section is consistent with other Departmental Regulations</b>	
<b>Section</b>	<b>Comment</b>
600	It appears that there is no header for “SECTION 600 – REPORTING” as noted in the TABLE OF CONTENTS at the bottom of page 3. The table of contents indicates that Section 601 is “Sentinel Event Reporting”. “Incident Reporting” is listed at the bottom of page 42.
<b>Department Response: Change made.</b>	
<b>Section</b>	<b>Comment</b>
601	<p>In a time where there is a documented shortage of EMTs and paramedics in our state, and COVID 19 is negatively impacting the finances and operations of most EMS systems, adding these types of reporting requirements is unreasonable. Large EMS systems will likely have to add multiple full-time compliance officers to comply with Section 601 as it is currently drafted. The number of hours (and related cost) it will take for EMS agencies to detect, report, investigate, document, follow-up and maintain records associated with these sentinel events is unreasonable and oppressive.</p> <p>Furthermore, the types of incidents that must be reported and followed up on are drafted in a manner that is, to say the least, confusing. This entire section is poorly drafted and lacks specificity, definition and clarity.</p> <p>Please consider deleting this entire section. If deleting the section in its entirety is not an option, please consider the time and budget impacts the requirements will have in the regulated community during a season when both time and money are in short supply.</p>
<b>Department Response: Not adopted.</b>	
<b>Section</b>	<b>Comment</b>
603	Please clarify exactly what the Agency is being required to report pursuant to this section. Is this referring to EMS agency staff, the “patients” or both? This section is poorly drafted and lacks specificity, definition and clarity.
<b>Department Response: Clarification made.</b>	
<b>Section</b>	<b>Comment</b>
700	It appears that there is no header for “SECTION 700 – PATIENT CARE” as noted in the TABLE OF CONTENTS at the bottom of page 4.
<b>Department Response: Header was present.</b>	
<b>Section</b>	<b>Comment</b>



701, Sub-D	<p>With regard to “provided that the ePCR is sent to the ER no later than twenty-four hours from completion of the call.” Please consider adding verbiage to the effect of “or providing the receiving facility with access to the ePCR.” Changing the verbiage will prevent unnecessary faxing or e-mailing of ePCRs and receiving facilities can access the reports if they wish to.</p> <p>Please consider removing “ER” and using “receiving facility”, instead. All patients are not delivered to the hospital “ER”.</p> <p>Please consider adding a sub-section that addresses what ambulance providers must do when the patient’s demographic information is not available (or unknown). Also, please document what Agency personnel must do when extenuating circumstances may prevent the reports from being completed and provided to the receiving facility within the time parameters listed.</p>
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
703 Sub-D	This section does not make sense. It is poorly drafted and lacks specificity, definition and clarity. Please consider a complete re-work of this subsection.
<b>Department Response: Not adopted. Statutory language</b>	
<b>Section</b>	<b>Comment</b>
704 Sub-F	As drafted, this contradicts the timeline outlined on page 51, Section 701, Sub-section D. In the case of a busy 911 EMS system that often transports multiple patients from the same incident, providing the receiving facility with a patient care report within 60 minutes is not practical or reasonable. Please consider verbiage to the effect of “as soon as is practical but within 4 hours after care is transferred”.
<b>Department Response: Not Adopted. Statutory language</b>	
<b>Section</b>	<b>Comment</b>
705, E and 706, C	Please consider similar verbiage when outlining requirements in these two sections (DNR and POST). As drafted, the verbiage is significantly different.
<b>Department Response: Not Adopted. Statutory language</b>	
<b>Section</b>	<b>Comment</b>
1704, Sub-B	Please consider a smaller quantity of sheets / linens. The draft currently calls for 6 sets. I suggest 2 sets as a minimum standard. 6 sets of sheets take up a lot of precious storage space.
<b>Department Response: Not adopted</b>	
<b>Section</b>	<b>Comment</b>
1901, Sub-B.1	Please consider revising the second sentence. As drafted, it seems to indicate that chevrons, etc., must continuously encircle the entire ambulance.
<b>Department Response: Adopted</b>	
<b>Section</b>	<b>Comment</b>
1901, Sub-B.2	As drafted, there is no mention of required markings and emblems on the front of an ambulance. Please consider adding same.
<b>Department Response: Not adopted.</b>	
<b>Section</b>	<b>Comment</b>

1901, Sub1	There is no verbiage that requires heat in the driver’s compartment. Please consider adding same. The items listed below largely pertain to typographical and spelling errors. Also noted are comments about quantities of required items, redundancy and instances where verbiage in one section may contradict another. A few general comments and questions are also noted below.
<b>Department Response: Not adopted.</b>	
<b>Section</b>	<b>Comment</b>
101	N. Do Not Resuscitate Bracelet (spelled incorrectly on the document) O. 3rd line should read “employing resuscitative measures” instead of “resuscitate”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
101	WW. There should be a colon after Variance
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
102	A. line 7 should read “and well-being of the Patients.”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
103	B. 4. The statement is incomplete. “designate the applicant’s...” What?
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
105	A. 7. Are we now going to require that all providers wear a picture I.D., visible to the public?
<b>Department Response: Have in their possession</b>	
<b>Section</b>	<b>Comment</b>
114	Issuance and Terms of Certification C. The second sentence should read “A Certification shall remain in effect until the Department receives and processes a request for change in that status”. D. Last line should read “more than ten (10)”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
115	First line should read “For a certificate to be...” A. Last sentence needs a space between “setting” and “and”.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
116	A. lower case “b” on “the individual shall be employed”; first line.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
117	G.1. should read “identification card” on first line. Line 2, there should be a space between “a” and “provisional”. Also, remove the “s” on certificate at the end of the line.

<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
118	Training Programs - (shouldn't this be Section 119?) A. First line needs a space between the comma after "person" and "technical". A.1.Remove the "d" off of "Filed" at the beginning of the sentence.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
118	B. Second line, remove the "n" from "an" (second word); insert an "a" between "in" and "format".
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
119	Continuing Education (based on previous note, should be 120) B. Education is misspelled. B. At the end of the first line, should read "complete and signed renewal certification application"
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
201	B. Line 3, remove the comma after "EMT" C. Remove the bracket after "Agency" on line 1
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
304	should be 301 Section 302 A. Strike "or" from the last line; "EMS Agency or has:"
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
303	A. Last line "or revoke a certification, " B. 2. "Has failed to provide a Patient's emergency..."
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
303	3.b. "Was convicted of or is currently..."
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
701	D. Second line, change "substituted" to "substitute".
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
703	A. Second line, "narrative description" may not be the best choice of words. Some of the software programs do not all for "narratives", they focus more on checking boxes. D. Third line, strike the first "shall", "...shall providers shall..."
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>

701	<p>B. This part is redundant. Hand hygiene is part of IC guidelines. If it must be singled out, it can be added in part A.</p> <p>Section 1703</p> <p>E. Remove “bloodstains” and replace with “blood”; “...ensure bloodstains, vomitus, feces...”</p> <p>H. Capitalize Agency (consistency throughout the document)</p>
<b>Department Response: Not adopted</b>	
<b>Section</b>	<b>Comment</b>
1704	D. First line, grammatical errors near the end of the line, should read “towels used in each ambulance are intact, in good repair, and cleaned or laundered...”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1708	<p>A. “The EMS Agency shall ensure that non-disposable, padded splints are neatly covered with a non-permeable material, in good repair, and clean. When the outside cover of the splint becomes soiled it is to be thoroughly cleaned or replaced.”</p> <p>B. Pneumatic does not need to be capitalized.</p> <p>F. Capitalize Agency (consistency throughout the document)</p> <p>Section 1709</p> <p>C. Add “, clean, and free from foreign material.” to the end of the statement.</p>
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1710	<p>A. Why are only triangle bandages listed as “single-use”? All bandages should be listed as single-use.</p> <p>Section 1712</p> <p>Line should read “patient’s mouth or nose that are single-use only and shall be...”</p> <p>Section 1713</p> <p>C. Second line, change “is” to “are”</p> <p>Section 1714</p> <p>Line should read “Patient care is in good repair, cleaned as it becomes soiled, and ...”</p>
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1716	<p>Add a “y” to “Agenc”</p> <p>Section 1801</p> <p>C. Change “no entry” to “an entry” in the first line</p> <p>D. Remove “of” from the last line, “when the vehicle of chassis...”</p> <p>Section 1802</p> <p>A. Third line, change “assests” to “assets”.</p> <p>C. 2. Remove the “d” from “licensed”; “Agency’s licensed affixed with...”</p>
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1900	F.1. Add “at” near the end of the first line; “ensure there is at least one”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>

1900	G.1. Change “s” to “a” in line one; “shall ensure a seat...” H. 2. Last line should read “in the Federal KKK-A-1822F Standards, and all change notices included.”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1900	I. 1. There is no mention of heating in the driver’s compartment. 2. Last line, insert “the” before “patient compartment” 4. First line should read either “The EMS Agency shall utilize...” or “ The EMS Agency may utilize...” No mention of separate switches in the patient compartment like is written in the “Heating Control” section. J. Last line should read “all necessary equipment and that all equipment”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
1900	K. Add “y” to “Agenc” Lines 5 & 6, remove the “ s “ from “patient’s”, leave it as “patient compartment” M. Should read “Antenna: The EMS Agency shall mount each antenna with coaxial or other cable of the radio system installed.” N. Add “y” to “Agenc” O. Last line, “Out of service”, out does not need to be capitalized 3. On the window? Numbering on the equipment list needs to be cleaned up.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2100	5. Quantity should be 2 each 19. How many?
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2100	23. Verbiage should be similar to #22 “material comparable to four-ply wood” #28 is missing 29. Spider straps are not listed here but are listed in the Air Ambulance list. 30. This identifies disposable HID’s but the earlier part of the document discusses reusable HID’s 43. Why are gloves and vests combined? The way this reads, there should be 2 pairs of vests. 45. Hard hats are changing?
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2100	47. Infant pads for an AED? B. There are 2 listed. Which one will be added to the document or will it be a combination of both statements? What about medications at the EMT level? C. 4. & 6. Are duplicates 14. Why is iodine still on the list? 2 # 5 10 No # 9 or # 11

<b>Department Response: Not Adotped</b>	
<b>Section</b>	<b>Comment</b>
2100	E. Remove “shall be equipped” from the end of line one, redundant. F. Add “The” before “EMS Agency” at the end of the third line. H. Add “The” before “EMS Agency” in the middle of the third line. Where is the statement about controlled substances? There is one in section 2204.B. for Air Ambulances but not one for ground units.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2201	I. Add the word “Agency” after “EMS” in the first line.
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2201	A.1. Correct “hsa” to “has” on first line F. Spelling “Air Ambulance” in first line Items under “F” should be “1.” “2.” “3.” In keeping with consistency in the document
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2201	K. First line, add a space between “is” and “provided”. Last line, add “ed” to “maintain”
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2201	2. What constitutes a “Flight Nurse”? The definition at the beginning of the document (definitions) is inadequate. 4. Why is this added to the regulation? It is required by the FAA regulations.
<b>Department Response: Not Adopted. Was in prior regulation not new text</b>	
<b>Section</b>	<b>Comment</b>
2203	5. Should be 2 each 6. Should be 1 each 7. Should be 1 each 2 # 13s, no #12 #13-14 should be 1 in each section
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2203	Items under section D are not numbered Amount not listed for BIADs
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2203	1. – 8. Monitor & its equipment are listed in the equipment list for Air Ambulances but not in the Ground Ambulance section. This should be more consistent. 14. Quantity should be 1 each 15. Quantity should be listed

<b>Department Response:</b>	
<b>Section</b>	<b>Comment</b>
2203	17. CPAP not listed in Ground Ambulance section 36. Why is iodine on the list?
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2203	1. Quantity needs to be added
<b>Department Response: Corrected</b>	
<b>Section</b>	<b>Comment</b>
2204	B. This information is not included in the Ground Ambulance section. D. This information is not included in the Ground Ambulance section.
<b>Department Response: Acknowledged</b>	

Date: December 10, 2020

To: South Carolina Board of Health and Environmental Control

From: Division of Healthcare Quality

**Re: Continuation of Public Hearing for Notice of Final Regulation Amending R.61-24, *Licensed Midwives*, Document No. 4974**

## **1. Introduction**

The Division of Healthcare Quality (“Healthcare Quality”) proposes amending Regulation 61-24, *Licensed Midwives*, pursuant to South Carolina Code Sections 44-1-140 *et seq.*, which enables the Department of Health and Environmental Control (“Department”) to establish and enforce basic standards for the licensure of midwives and midwifery services to ensure the safe and adequate treatment of persons served in this state. The proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

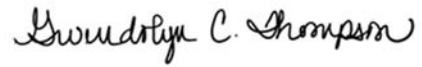
## **II. Facts**

1. The Department initiated the statutory process for amendment pursuant to S.C. Code Section 1-23-110(A)(1) by publication of a Notice of Drafting in the February 28, 2020, *State Register*.
2. The Board granted staff approval on August 13, 2020 to publish a Notice of Proposed Regulation containing the text and notice of opportunity for public comment in the August 28, 2020, *State Register*, as Document No. 4974.
3. The Department received public comments from 107 people by the September 28, 2020, close of the public comment period. Department staff considered those comments in finalizing the regulatory text of the proposal for public hearing
4. A Public Hearing for Notice of Final Regulation Amending R.61-24, *Licensed Midwives*, Document No. 4974, was conducted before the Board on November 12, 2020. After hearing comments from the public, the Board decided to continue the Public Hearing to the December 10, 2020 Board meeting. Specifically, the Board directed Department staff to provide additional information and revisions to the proposed regulations as it relates to the use of Lidocaine, the use of antihemorrhagics, mandatory 911 transport, physician sign-off on low risk birth, and any other items mentioned or reviewed in the comments.
5. Attachment A presents staff’s review of these issues and contains pertinent sections of the current regulation, the proposed language as presented, justification for the proposed amendments, and potential alternative language for the Board’s consideration.



### III. Request for Approval

Healthcare Quality respectfully requests the Board find need and reasonableness of its proposed amendments of R.61-24, *Licensed Midwives*, for submission to the General Assembly.



---

Gwen Thompson  
Deputy Director  
Healthcare Quality

## ATTACHMENT A

### SUMMARY OF ADDITIONAL INFORMATION AND REVISIONS

#### R. 61-24, *Licensed Midwives*

##### Use of Lidocaine

###### **Issue:**

Some commenters stated they cannot not suture without injectable lidocaine and the proposed amendment only allows topical lidocaine.

###### **Current Regulation:**

*Section N. Prohibitions in the Practice of Midwifery.*

*1. Medications. The midwife shall not administer any drugs or injections of any kind, except as indicated in Sections G.5 and M.2.b.*

*Section G. 5. Medications. Drugs or medications shall be administered only after consultation with and prescription by, a physician. The midwife shall not administer any drugs or medications except:*

- a. For control of postpartum hemorrhage;*
- b. When administering medication in accordance with regulations governing the prevention of infant blindness;*
- c. When administering RhoGAM in accordance with accepted standards of professional practice.*

*Section M.2. Examples of Emergency Measures. These are:*

- b. Intramuscular administration of Pitocin for the control of postpartum hemorrhage.*

###### **As Presented:**

*B. The Midwife shall only administer Medications as prescribed by the Physician or other Authorized Healthcare Provider. The Midwife shall only administer the following Prescription Medications:*

- 5. Topical Lidocaine;*

###### **Justification:**

Intravascular Lidocaine can cause life threatening hypotension, arrhythmias and cardiac arrest. Physician and other authorized healthcare providers support the use of topical Lidocaine in the out of hospital setting, but state that the injection of Lidocaine is risky and should not be required in the setting of a normal, uncomplicated birth. The only reason injected lidocaine would be required is if women have complex perineal lacerations and for these repairs should be transferred to the hospital for surgical evaluation.

###### **Alternative:**

*Section 1200. B. The Midwife shall only administer Medications as prescribed by the Physician or other Authorized Healthcare Provider. The Midwife shall only administer the following Prescription Medications:*

- 5. Topical or one percent (1%) injectable Lidocaine*

## **Use of Antihemorrhagics**

### **Issue:**

Some commenters requested misoprostol in addition to oxytocin as an antihemorrhagic.

### **Current Regulation:**

*G. 5. Medications. Drugs or medications shall be administered only after consultation with and prescription by, a physician. The midwife shall not administer any drugs or medications except:*

*a. For control of postpartum hemorrhage;*

### **As Presented:**

*Section 1200. B. The Midwife shall only administer Medications as prescribed by the Physician or other Authorized Healthcare Provider. The Midwife shall only administer the following Prescription*

*Medications:*

*4. Oxytocin;*

### **Justification:**

Postpartum hemorrhage (PPH), the leading cause of maternal morbidity and mortality globally, is responsible for 130,000 maternal deaths annually. In the United States, 125,000 (2.9%) women who give birth will experience postpartum hemorrhage each year. Postpartum hemorrhage is defined as blood loss of 500 ml or more within 24 hours of birth. The average amount of blood loss after the birth of a single baby in vaginal delivery is about 500 ml (or about a half of a quart). The loss of 1000 ml or more is defined as major PPH. The average amount of blood loss for a cesarean birth is approximately 1,000 ml (or one quart).

Licensed midwives are trained experts in the management of low-risk pregnancy and birth outside of the hospital. Postpartum PPH with blood loss above 1000 ml would elevate the birth to high risk, and thus it is outside the midwife's scope of practice. Midwives are required to initiate a medical consultation when high risk medical complications arise such as major PPH. The goal of the consultation is care and interventions that reduce the risk level such that care remains the responsibility of the midwife. A transfer of care is required when the primary care responsibilities required for the appropriate care of the client fall outside of the midwife's scope of practice.

Oxytocin is the recommend drug of choice for PPH as the first line medication. Studies, cited by some midwives, state that in third world countries other medications may be used. However, their use is recommended only when oxytocin is not available.

Misoprostol is not approved by the U.S. Food and Drug Administration for postpartum hemorrhaging. Any such use is considered an off-label use. This medication is also used in combination with another drug to end a pregnancy. The medication may also be used for induction of cervical softening and dilation in labor. The main problems cited for the medication are hyperstimulation, uterine rupture, and placental abruption. Oxytocin alone is the recommended uterotonic drug for the treatment of postpartum hemorrhage, and if the hemorrhaging goes beyond use of oxytocin, it has elevated to high risk beyond the midwife's scope of practice.

**Alternative:**

Healthcare Quality does not propose potential alternative text for this issue.

## **Mandatory 911 Transport**

### **Issue:**

On the requirement to call 911 for transfer of care when a delivery proceeds beyond a midwife's scope of care, some commenters stated EMTs do not always arrive in the fastest time and are not trained in neonatal resuscitation, and 911 should not be the only option for non-emergent transfer of care.

### **Current Regulation:**

Not specifically addressed in the current regulation.

### **As Presented:**

Section 1500. A and B.

*A. The Midwife shall immediately initiate a Transfer of Care during intrapartum and postpartum by dialing 911 when the care required is outside the Midwife's scope of practice pursuant to Section 400, as recommended by a Physician or other Authorized Healthcare Provider during a Medical Consultation, or for any event during labor that compromises the health of the Client or Neonate and/or normally requires emergency intervention.*

*B. Upon arrival of the emergency medical services personnel, Physician, or other Authorized Healthcare Provider, the Midwife shall transfer the care of the Client to the emergency medical services personnel, Physician, or other Authorized Healthcare Provider. The Midwife shall provide information as requested by the emergency medical services personnel, Physician, or other Authorized Healthcare Provider.*

### **Justification:**

The transfers in this section of the proposed amendments are emergent transfers only. When emergent events during intrapartum and/or postpartum move the pregnancy, birth, and/or condition of the client or neonate beyond the scope of midwifery care, the client and/or neonate are no longer considered low-risk and a transfer of care is required.

EMS personnel are trained to identify anatomical and physiological changes that occur during pregnancy, demonstrate normal and abnormal deliveries, summarize signs and symptoms of common gynecological emergencies, and neonatal resuscitation. EMS personnel are required by statute to be NREMT certified. This certification includes completing a state certified training program that includes training in these areas, and successfully passing the NREMT Cognitive and Psychomotor examinations which include questions and skill testing in obstetrics.

Each permitted ambulance in the state is required to have an obstetric kit and neonatal resuscitation equipment on board. EMS Agencies are required to have Protocols including standing orders for the administration of medications and the provision of treatment for mothers and infants.

EMS personnel are required to maintain online medical control with a physician via two way radio, have the knowledge of which hospitals have the perinatal levels of care for the specific patient, and transport patients to the nearest hospital to meet the needs and care of both the Client and the infant. EMS Agencies are required to have staffing patterns and, if necessary, mutual aid agreements to ensure that an ambulance is en route with at least one EMT and one driver onboard to all emergent responses within

five (5) minutes or the next closest staffed ambulance must be dispatched, excluding prearranged transports.

**Alternative:**

1501. Non-emergent Transfer of Care

A. The Midwife shall develop, prior to thirty-six (36) weeks gestation, a written non-emergent transfer plan with participation of the Client, as evidenced by their signatures and date. The Midwife shall implement the written plan at the time of need and maintain documentation of the plan in the Client's record.

B. In the event of non-emergent transfer of care, the Midwife shall accompany the Client to the hospital and remain with the Client until Transfer of Care is complete. The Midwife shall not be the driver of the vehicle transporting the Client.

1502. Emergent Transfer of Care

A. The Midwife shall immediately initiate an emergent Transfer of Care during intrapartum and postpartum by dialing 911 when the care required is outside the Midwife's scope of practice pursuant to Section 400, as recommended by a Physician or other Authorized Healthcare Provider during a Medical Consultation, or for any event during labor that compromises the health of the Client or Neonate and/or normally requires emergency intervention.

B. Upon arrival of the emergency medical services personnel, Physician, or other Authorized Healthcare Provider, the Midwife shall transfer the care of the Client to the emergency medical services personnel, Physician, or other Authorized Healthcare Provider. The Midwife shall provide information as requested by the emergency medical services personnel, Physician, or other Authorized Healthcare Provider.

## **Physician Sign-off on Low Risk**

### **Issue:**

Public comments were made that a written and signed statement by the Physician or other Authorized Healthcare Provider that he or she has determined to the best of his or her ability that the pregnancy is a Low Risk Pregnancy is not possible.

### **Current Regulation:**

*D. Scope of Practice. The licensed midwife may provide care to low-risk women and neonates determined by medical evaluation to be prospectively normal for pregnancy and childbirth*

*F. Prenatal Care.*

*1. Required Visits. The midwife shall, upon acceptance of a woman for care, require her to have two visits with a physician, community health center or health department. One of these visits must be in the final six weeks of pregnancy. The midwife shall make entries in the patient's record of the physician, health center, or health department visits.*

### **As Presented:**

#### A. Initial Physical Examination:

1. The Midwife shall require the Client to undergo an initial Physical Examination completed by a Physician or other Authorized Healthcare Provider between ten (10) weeks and twenty (20) weeks of gestation. The Midwife may accept Clients after twenty (20) weeks of gestation provided the Client has undergone a Physical Examination that meets the requirements in Section 1100.A.2.

2. The Midwife shall ensure the initial Physical Examination of the Client is documented in the Client's record and includes:

a. A written and signed statement by the Physician or other Authorized Healthcare Provider that he or she has determined to the best of his or her ability that the pregnancy is a Low Risk Pregnancy as defined by this regulation; and

b. Identification of special conditions and/or care required.

#### B. Second Physical Examination:

1. The Midwife shall require the Client to undergo a second Physical Examination completed by a Physician or other Authorized Healthcare Provider after thirty-four (34) weeks of gestation.

2. The Midwife shall ensure the second Physical Examination of the Client is documented in the Client's record and includes:

a. A written and signed statement from the Physician or other Authorized Healthcare Provider that the pregnancy remains a Low Risk Pregnancy and the fetus is in the vertex position; and

b. Orders for Medications needed for intrapartum and postpartum.

**Justification:**

This requirement is a clarification of the current required documentation. Requiring a Physical Examination rather than a Medical Consultation is consistent with other regulations. S.C. Code 44-89-60(4) requires a physician to make a written determination that the planned birth is low risk. The requirement for signatures for verification are consistent with other Department regulations.

**Alternative:**

1101. Initial Physical Examination:

A. The Midwife shall require the Client to undergo an initial Physical Examination completed by a Physician or other Authorized Healthcare Provider between eight (8) weeks and twenty (20) weeks of gestation. The Midwife may accept Clients after twenty (20) weeks of gestation provided the Client has undergone a Physical Examination that meets the requirements in Section 1100.A.2.

B. The Midwife shall ensure the initial Physical Examination of the Client is documented in the Client's record and includes a written and signed documentation by the Physician or other Authorized Healthcare Provider verifying the following information:

1. The Client's name and date of birth;
2. The address of the facility and date of the appointment;
3. The estimated gestational age;
4. Identification of special conditions and/or care required; and
5. The Physician or other Authorized Healthcare Provider has determined to the best of his or her ability at the time of the appointment that:
  - a. The Client has no evidence of hypertension;
  - b. The Client has no evidence of uncontrolled diabetes;
  - c. The Client is HIV negative;
  - d. The Client is negative for Hepatitis B and C;
  - e. The Client has no evidence of anemia; and
  - f. The Client has no evidence of multiple gestations.

1102. Second Physical Examination:

A. The Midwife shall require the Client to undergo a second Physical Examination completed by a Physician or other Authorized Healthcare Provider in the last six weeks of gestation.

B. The Midwife shall ensure the second Physical Examination of the Client is documented in the Client's record and includes:



1. A written and signed documentation from the Physician or other Authorized Healthcare Provider verifying the following information:

a. The Client's name and date of birth;

b. The address of the facility and the date of the appointment;

c. The estimated gestational age;

d. Identification of special conditions and/or care required; and

e. The Physician or other Authorized Healthcare Provider has determined to the best of his or her ability at the time of the appointment that:

i. The Client has no evidence of proteinuria and/or ketonuria

ii. The Client has no evidence of Group B Streptococcus;

iii. The Client has no evidence of gestational diabetes;

iv. The Client has no evidence of active genital herpes;

v. The Client has no evidence of multiple gestations;

vi. The Client has no evidence of anemia;

vii. The Neonate is in the vertex position;

viii. There is no decrease in fetal movement;

ix. There is no evidence of abnormal fetal heart tones; and

x. There is no evidence of abnormal fetal size for gestation.

2. Orders for maternal and neonatal Medications needed for intrapartum, and postpartum and newborn periods.

## **Emergent Blood Loss Amount**

### **Issue:**

Public comment made related to the amount of blood loss due to PPH.

### **Current Regulation:**

*K. Maternal Conditions Requiring Physician Referral or Consultation. At any time in the maternity cycle, the midwife shall obtain medical consultation, or refer for medical care, any woman who:*  
*43. Has bleeding of over three cups before or after delivery of placenta;*

### **As Presented:**

*1300. B. The Midwife shall obtain a Medical Consultation for Clients or Neonates presenting any of the following conditions:*

*1. Antepartum to include:*

*b. Hemorrhage greater than one thousand milliliters (1000 ml), and bleeding is uncontrolled;*

### **Justification:**

Postpartum hemorrhage (PPH), the leading cause of maternal morbidity and mortality globally, is responsible for 130,000 maternal deaths annually. In the United States, 125,000 (2.9%) women who give birth will experience postpartum hemorrhage each year. Postpartum hemorrhage is defined as blood loss of 500 ml or more within 24 hours of birth. The average amount of blood loss after the birth of a single baby in vaginal delivery is about 500 ml (or about a half of a quart). The loss of 1000 ml or more is defined as major PPH. The average amount of blood loss for a cesarean birth is approximately 1,000 ml (or one quart). The amount identified in the current regulation equates to approximately 700 ml.

Studies show that visual estimation of blood loss increases in error as the amount of blood loss increases. Visual estimation is the means by which the amount of blood loss during delivery is determined. When determining how much blood can be lost before the situation is determined to be emergent, one should take into account a margin of error along with the loss of blood that will occur while waiting for transport and arrival to the hospital.

Licensed midwives are trained experts in the management of low-risk pregnancy and birth outside of the hospital. Postpartum PPH with blood loss above 1000 ml would elevate the birth to high risk, and thus it is outside the midwife's scope of practice. Midwives are required to initiate a medical consultation when high risk medical complications arise such as major PPH. The goal of the consultation is care and interventions that reduce the risk level such that care remains the responsibility of the midwife. A transfer of care is required when the primary care responsibilities required for the appropriate care of the client fall outside of the midwife's scope of practice.

### **Alternative:**

*1300. B. The Midwife shall obtain a Medical Consultation for Clients or Neonates presenting any of the following conditions:*

1. Antepartum to include:

b. Hemorrhage greater than seven hundred fifty milliliters (750 ml), and bleeding is uncontrolled;

## **Vaginal Birth after Cesarean (VBAC)**

### **Issue:**

Some Commenters state that it should be within the scope of practice of Certified Professional Midwives to attend VBACs.

### **Current Regulation:**

*D. Scope of Practice. The licensed midwife may provide care to low-risk women and neonates determined by medical evaluation to be prospectively normal for pregnancy and childbirth*

### **As Presented:**

*Section 400. D. The Midwife shall not perform any of the following:*

*2. Provision of care for a Client with a previous cesarean section;*

### **Justification:**

It was and is the Department's position that VBACs are not low-risk deliveries and are therefore outside the scope of practice for licensed midwives. VBAC deliveries require continuous electronic fetal monitoring and attendance by licensed health care personnel familiar with potential complications. Uterine rupture often is sudden and may be catastrophic, and no accurate antenatal predictors of uterine rupture have been identified. However the most common sign indicative of uterine rupture is fetal heart rate abnormality, which has been associated with up to 70% of cases of uterine ruptures. Licensed Midwives do not provide continuous fetal heart rate monitoring in the home. Not only have they requested to do intermittent fetal heart rate monitoring, they have requested to perform the monitoring at a less frequent rate than best practice.

The South Carolina Board of Nursing does not endorse Certified Nurse Midwives to perform VBAC deliveries out of the acute care (hospital) setting and acknowledges that VBAC deliveries only be performed within facilities capable of implementing emergency and surgical interventions.

There was mention of information comparing VBAC outcomes in South Carolina home births as compared to other states. This data is unavailable as VBACs are currently outside the scope of practice for South Carolina licensed midwives.

A VBAC is the result of a successful Trial of Labor after Cesarean (TOLAC). TOLAC is associated with the risk of uterine rupture which can cause brain damage or death of the baby and result in serious hemorrhage or hysterectomy in the mother. VBAC poses more medical risks to the baby than a scheduled repeat c-section. A repeat c-section poses more medical risks to the mother than VBAC. A C-section after a failed TOLAC is associated with more risks than a c-section done before labor has begun.

Of the states that regulate midwives, nine do not permit VBACs, eleven allow them with stringent restrictions, and seven allow them with informed consent of the risks.

### **Alternative:**

Healthcare Quality does not propose alternative text for this issue.

## **Definition of Preceptor.**

### **Issue:**

Some commenters state that the definition in the proposed revisions may not be consistent with that suggested by NARM

### **Current Regulation:**

*Section A. 2.*

*m. Midwifery Instructor. A physician, certified nurse-midwife or licensed midwife, licensed in the State of South Carolina, who has a supervisory relationship with an apprentice midwife.*

### **As Presented:**

*101.Z. Midwifery Preceptor. A Physician, Certified Nurse-Midwife, or Midwife, licensed in South Carolina, who has a supervisory relationship with an Apprentice Midwife.*

### **Justification:**

A NARM Registered Preceptor is a midwife who meets requirements for supervising CPM candidates and has current, approved registration through NARM.

The Registered Preceptor must be credentialed as a Certified Professional Midwife (CPM), Certified Nurse Midwife (CNM), Certified Midwife (CM); or he or she must be a licensed practitioner legally recognized by a state/jurisdiction to provide maternity care. A preceptor must have an additional three years of experience after credentialing or fifty primary births beyond entry-level CPM requirements. Additionally, he or she must also have ten continuity of care births beyond entry-level CPM requirements. A preceptor must have attended a minimum of ten out-of-hospital births in the last three years.

The proposed regulation allows midwives licensed in South Carolina to practice the full scope of midwifery care and services as required by NARM for an apprentice midwife to practice and to show evidence of mastering skills through demonstration. There are some skills required by NARM for the apprentice to learn but that are not within the scope of practice in current and proposed regulation. NARM has allowed for those skills to be “simulated” by the apprentice as many states do not permit such skills to be included in the scope of practice for a direct entry midwife.

Twenty-five Apprentice Midwives have received their NARM certification since the promulgation of the current regulation in 2013.

### **Alternative:**

Healthcare Quality does not propose potential alternative text for this issue.

## **Laceration repairs.**

### **Issue:**

Some commenters stated that the performance of first and second-degree laceration repairs is within the scope of direct entry midwives. Other commenters, representing obstetricians and physicians, indicate that there could be long-term damage if these procedures are not performed properly and with adequate training.

### **Current Regulation:**

*N. Prohibitions in the Practice of Midwifery.*

*2. Surgical Procedures. The midwife shall not perform any operative procedures or surgical repairs other than artificial rupture of membranes at the introitus, and clamping and cutting of the umbilical cord or as noted above in an emergency.*

### **As Presented:**

C. The Midwife and Apprentice Midwife may perform any of the following after submitting signed and dated documentation to the Department of the Midwifery Bridge Certificate, Midwifery Education Accreditation Council, American College of Nurse-Midwives, or other Department-approved training course completion on the topic:

2. Suturing of first-degree and second-degree tears; and

### **Justification:**

A vaginal tear is a laceration to the perineum (the area between the vagina and rectum) that occurs when the baby is pushed out. The tears are spontaneous, meaning no one made a cut. Vaginal tears are very common as 85% - 90% of first-time births result in vaginal tears. Rates of tearing are lower for subsequent births, roughly 60% tear, as well as for those giving birth with midwives.

There are four degrees of vaginal tears. A first degree tear is a shallow tear to the skin of the perineum. Sometimes a first degree tear needs stitches, and other times it can heal without stitches. A Second degree tear is a tear to the skin and muscle layers of the perineum. Second degree tears heal better when they are repaired with stitches. A third degree tear is a tear through the perineal muscles and into the ring-shaped muscle that surrounds the anus (the anal sphincter). A fourth degree tear goes through the anal sphincter and into the anus.

### **Alternative:**

C. The Midwife and Apprentice Midwife may perform any of the following after submitting signed and dated documentation to the Department of the Midwifery Bridge Certificate, Midwifery Education Accreditation Council, American College of Nurse Midwives, or other Department approved training course completion on the topic:

2. Suturing of first degree tears; and

Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Division of Healthcare Quality

**Re: Public Hearing for Notice of Final Regulation Amending R.61-96, *Athletic Trainers*, Document No. 4996**

## I. Introduction

The Division of Healthcare Quality (“Healthcare Quality”) proposes the attached Notice of Final Regulation amending R.61-96, *Athletic Trainers*. Legal authority resides in S.C. Code Sections 44-75-10 *et seq.*, which requires the Department of Health and Environmental Control (“Department”) to develop standards and prescribe regulations for the improvement of athletic training services in the state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

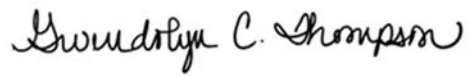
## II. Facts

1. Pursuant to R.61-96, *Athletic Trainers*, Healthcare Quality certifies and enforces standards athletic trainers in South Carolina. Healthcare Quality proposes updating provisions for R.61-96 in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements regarding obtaining licensure, inspections, training, record maintenance and retention, the incorporation of statutory changes allowing for monetary penalties, and licensure standards. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.
2. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*.
3. Healthcare Quality held a stakeholder meeting on March 16, 2020. Healthcare Quality considered stakeholder feedback in formulating the proposed amendments herein.
4. Appropriate Department staff conducted an internal review of the proposed amendments on July 28, 2020.
5. Healthcare Quality staff received comments on the proposed amendments from the Athletic Trainers’ Advisory Committee on July 31, 2020, and considered the committee’s feedback in formulating the proposed amendments herein. Healthcare Quality presented those comments to the Board during the September 10, 2020, Board meeting.
6. The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from twelve people by the October 26, 2020, close of the public comment period, and considered the comments in formulating the proposed amendments herein.
7. Healthcare Quality held another stakeholder meeting on October 9, 2020, and considered stakeholder feedback in formulating the proposed amendments herein.
8. After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting

and published in the September 25, 2020, *State Register*. Descriptions of the changes appear in Attachment B, Summary of Public Comments and Department Responses.

### **III. Request for Approval**

Healthcare Quality respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-96, *Athletic Trainers*, for submission to the General Assembly.



---

Gwen Thompson  
Deputy Director  
Healthcare Quality

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses



**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R.61-96, *Athletic Trainers***

**December 10, 2020**

Document No. 4996

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

Statutory Authority: 1976 Code Sections 44-75-10 et seq.

61-96. Athletic Trainers.

**Synopsis:**

The Department of Health and Environmental Control (“Department” or “DHEC”) amends R.61-96 to update provisions in accordance with current practices and standards. Amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements for obtaining certification, inspections and investigations, continuing education, patient care, documentation, and the incorporation of statutory change allowing for monetary penalties. The amendments also update the structure of the regulation throughout for consistency with other DHEC Healthcare Quality regulations.

The Department further revises for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-96 was last amended in 2015.

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

**Instructions:**

Replace R.61-96, Athletic Trainers, in its entirety with this amendment.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-96. Athletic Trainers.

(Statutory Authority: S.C. Code Sections 44-75-10 et seq., ~~S.C. Code of Laws, 1976, as amended~~)

**Contents:**

~~61-96.A. Purpose, Administration and Definitions.~~

~~61-96.B. Description of the Profession.~~

~~61-96.C. Certification.~~

~~61-96.D. Fees.~~

~~61-96.E. Reciprocity.~~

~~61-96.F. Exemption from Certification.~~

~~61-96.G. Grandfather Provision.~~

- 61-96.H. Change of Name and Address.
- 61-96.I. Professional Identification.
- 61-96.J. Continuing Education.
- 61-96.K. Revocation, Suspension and Denial of Certification; Penalties; Appeals Process.
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SECTION 1800 – [RESERVED]

SECTION 1900 – [RESERVED]

SECTION 2000 – [RESERVED]

SECTION 2100 – [RESERVED]

SECTION 2200 – [RESERVED]

SECTION 2300 – [RESERVED]

SECTION 2400 – [RESERVED]

SECTION 2500 – [RESERVED]

SECTION 2600 – [RESERVED]

SECTION 2700 – SEVERABILITY

SECTION 2800 – GENERAL

### **SECTION 100 – DEFINITIONS AND CERTIFICATION**

#### **A. Purpose, Administration and Definitions.**

~~1. Purpose: The purpose of this regulation is to assure the highest degree of professional conduct by those engaged in offering athletic train services to the public and to safeguard the public’s health, safety, and welfare by establishing minimum qualifications for those individuals wishing to offer athletic trainer services to the public.~~

~~2. Administration: All regulations pertaining to the administration of the “Athletic Trainers’ Act of South Carolina”, Sections 44-75-10 et seq., S.C. Code of Laws, 1976, as amended, shall be administered by the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina.~~

~~**3101. Definitions:** For the purpose of these Standards, the following definitions shall apply:~~

~~a. “Law” as used in these rules shall mean the “Athletic Trainers’ Act of South Carolina”, Sections 44-75-10 et seq., S.C. Code of Laws, 1976, as amended.~~

A. Athletic Trainer. An allied healthcare professional with specific qualifications as set forth in South Carolina Code Section 44-75-50 who, upon the advice and consent of a licensed Physician, carries out the practice of care, prevention, and physical rehabilitation of athletic injuries and who, in carrying out these functions, may use physical modalities including, but not limited to, heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment.

~~bB. “Board”~~Board. shall mean the~~The South Carolina Board of the South Carolina Department of Health and Environmental Control.~~

~~e. “Department” means the South Carolina Department of Health and Environmental Control.~~

~~d. “Committee” shall mean the South Carolina Athletic Trainers’ Advisory Committee.~~

~~e. “Athletic Trainer” means a person with specific qualifications as set forth in Section 44-75-50 of the Law who, upon the advice and consent of a licensed physician, carries out the practice of care, prevention, and physical rehabilitation of athletic injuries, and who, in carrying out these functions, may use physical modalities, including, but not limited to, heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment.~~

~~fC. “Certificate”~~Certificate. means o~~Official acknowledgement by the Department that an individual has successfully completed the education and other requirements referred to in the “Athletic Trainers’ Act of South Carolina”, in accordance with South Carolina Code Sections 44-75-10 et seq. and this regulation, which entitles that individual to perform the functions and duties of an athletic trainer~~Athletic Trainer.

D. Committee. The South Carolina Athletic Trainers’ Advisory Committee.

E. Consultation. A meeting with Department representatives who will provide information to the Certificate holder with the goal of facilitating compliance with this regulation.

F. Continuing Education. Education beyond the basic preparation required for entry into the profession that is directly related to the performance and practice of the Athletic Trainer.

G. Department. The South Carolina Department of Health and Environmental Control.

H. Inspection. A visit, in-person meeting, or review of materials by Department representatives for the purpose of determining compliance with this regulation.

I. Investigation. A visit, in-person meeting, or review of materials by Department representatives for the purpose of determining the validity of allegations received by the Department relating to statutory and regulatory compliance.

~~g. “Licensed Physician” means a physician licensed by the South Carolina State Board of Medical Examiners.~~

J. Patient. A person who receives care, treatment, or services from an Athletic Trainer certified by the Department.

K. Physically Active Population. Any individual, entity, group, or organization who participates in an athletic activity, a job function, or a job-related activity that requires physical strength, range of motion, flexibility, control, speed, stamina, or agility.

L. Physician. An individual currently licensed to practice medicine by the South Carolina Board of Medical Examiners.

M. Variance. An alternative method that ensures the equivalent level of compliance with the standards in this regulation.

~~h. “Employment of Athletic Trainer” shall mean a person who is engaged as an athletic trainer if the person is employed on a salary or contractual basis by an educational institution, a hospital, rehabilitation clinic, professional organization, or other bona fide athletic organization and performs the duties of an athletic trainer as a major responsibility of this employment.~~

~~i. “Advice and Consent of a Licensed Physician” shall mean the general written or oral standing orders and/or protocol signed by a licensed physician.~~

#### ~~B. Description of the Profession.~~

~~An athletic trainer is an individual who has successfully completed the college or university undergraduate degree and fulfilled the requirements for certification as established by the Board of Certification, Inc., in association with the National Athletic Trainers’ Association (NATA), and successfully completed the Athletic Trainers Certification Examination as administered by the Board of Certification, Inc. Through a combination of formal classroom instruction and clinical experience, the athletic trainer is prepared to apply a wide variety of specific health care skills and knowledge within the domains/standards. The seven domains/standards of athletic training from which these specific tasks are measured in the examination are:~~

~~1. Direction: The athletic trainer renders services or treatment under the advice and consent of a licensed physician.~~

~~2. Prevention: The athletic trainer understands and uses preventative measures to assure the highest quality of care for every patient.~~

~~3. Immediate Care: The athletic trainer provides standard and immediate care procedures used in emergency situations, independent of setting.~~

~~4. Clinical Evaluation and Diagnosis: Prior to treatment the athletic trainer assesses the patient’s level of function. The patient’s input is considered as an integral part of the initial assessment. The athletic trainer follows the standards of clinical practice in an area of diagnostic reasoning and medical decision making.~~

~~5. Treatment Rehabilitation and Re-Conditioning: The athletic trainer develops the treatment program and determines the appropriate treatment, rehabilitation and/or reconditioning strategies. The treatment program objectives include long and short term goals and appraisal of those that the patient can realistically be expected to achieve from the program. This assessment measure determines effectiveness of the program and is incorporated into the program.~~

~~6. Program Discontinuation: The athletic trainer, in collaboration with the licensed physician, recommends discontinuation of athletic training services when the patient has received optimal benefit of the program. The athletic trainer, at the time of discontinuation, notes the final assessment of the patient’s status.~~

~~7. Organization and Administration: All services are documented in writing by the athletic trainer and are part of the patient’s permanent records. The athletic trainer accepts responsibility of recording details of the patient’s health care status.~~

#### **€102. Certification.**

~~1. Requirements: A person who seeks certification as an athletic trainer in the State of South Carolina must successfully complete the Athletic Trainer Certification Examination as administered by the Board of Certification, Inc., and satisfy the following requirements:~~

- a. Meets the athletic training curriculum requirements of a college or university; and
- b. Submits a certified transcript from the college or university along with the completed application.

~~2. Applications:~~

~~a. Each candidate for certification must file a written application on a form furnished upon request from the Department. The application must be completed in its entirety and must include all relative documents and fees.~~

~~b. An application must be completed by the applicant and reviewed by the Department within ninety (90) days of the date that the first document has been received by the Department. Any application not completed within this period will become void. Any consideration of certification after this date will require the applicant to submit a new application, new documents and appropriate fees. The applicant will be notified in writing of approval or denial of request for certification.~~

~~c. Once an application is reviewed by the Department, no refund of the application fee shall be issued.~~

~~d. Certification will remain current for two (2) years from the issue date.~~

~~3. Examination: The applicant must pass the Athletic Trainer Certification Examination as administered by the Board of Certification, Inc., in association with the National Athletic Trainers' Association before a certificate for South Carolina certification can be issued from the Department.~~

~~4. Renewal: With renewal being every two (2) years, the Department shall send a renewal application form, sixty (60) days prior to the renewal date, to the last address registered with the Department in the South Carolina Credentialing Information System (CIS), to the person to whom the certification was issued or renewed during the preceding renewal period. The athletic trainer shall then:~~

- ~~a. Complete the renewal application form;~~
- ~~b. Submit proof of continuing education credit as detailed in Section J, Continuing Education;~~
- ~~c. Enclose the renewal fee; and~~
- ~~d. File the above with the Department prior to the renewal date.~~

~~5. Failure to Renew: An athletic trainer who does not file with the Department his or her renewal application by the renewal date will be deemed to have allowed his or her certification to expire. Such certification may be reinstated by the Department, at its discretion, by the payment of an additional late renewal fee, provided the application is made within six (6) months of the renewal date. After six (6) months, an additional restoration fee will be charged to those individuals who wish to restore certification.~~

~~6. Reinstatement: A certificate which is revoked for failure to renew may be reinstated at the direction of the Department and the Committee within two (2) years of its expiration date. Any consideration for recertification will necessitate submission of a new application and will require the applicant to meet the then existing requirements.~~

~~D. Fees.~~

~~To be certified, athletic trainers practicing in the State of South Carolina must pay the fees according to the fee schedule listed below unless otherwise exempted by law. Appropriate fees must be made payable by credit card, check or money order to the South Carolina Department of Health and Environmental Control.~~

~~1. Fees:~~

~~(a) Application Fee: The application fee shall be fifty dollars (\$50) due upon receipt of the application.~~

~~(b) Examination Fee: The examination fee will be the current examination fee of the Board of Certification, Inc. (BOC) in association with the National Athletic Trainers' Association. This fee is in addition to the application fee.~~

~~(c) Re-Examination Fee: The re-examination fee shall be the current BOC in association with the National Athletic Trainers' Association re-examination fee.~~

~~(d) Biennial Renewal Fee: The biennial renewal fee shall be forty dollars (\$40) due on the anniversary date of the second year after the applicant is certified. Renewal fees will be due on the anniversary date every two years after that.~~

~~(e) Late Renewal Fees: An additional fifteen (\$15) late renewal fee for a total of fifty five (\$55) will be charged to those individuals who renew with a six (6) month period after the biennial renewal date.~~

~~(f) Restoration Fee: An additional one hundred (\$100) restoration fee for a total of one hundred forty dollars (\$140) will be charged to those individuals who fail to renew within the six (6) month late renewal schedule.~~

~~2. Other Fees:~~

~~Duplicate Certificate and ID Certificate Card: Seven dollars (\$7).~~

~~A. Certification.~~

~~1. No person may hold himself or herself out as an Athletic Trainer or perform for compensation any activities of an Athletic Trainer as defined in South Carolina Code Section 44-75-20 without first obtaining a Certificate from the Department. When it has been determined by the Department that an individual is engaged as an Athletic Trainer and the individual has not been issued a Certificate from the Department, the individual shall cease engaging as an Athletic Trainer immediately. Current and/or previous violation(s) of the South Carolina Code of Laws or Department regulations may jeopardize the issuance of an Athletic Trainer Certificate. (I)~~

~~2. A person is engaged as an Athletic Trainer if the person is employed on a salary or contractual basis by an educational institution, a hospital, a rehabilitation clinic, a Physician's office, an industry, a performing arts group, a professional athletic organization, the military, a governmental agency, or other bona fide organization which employs or serves a Physically Active Population and performs the duties of an Athletic Trainer as a major responsibility of this employment.~~

~~3. A person certified by the Department to practice and perform as an Athletic Trainer may use the title "State Certified Athletic Trainer" and/or the abbreviations "S.C.A.T." and "SCAT."~~

~~B. Issuance and Terms of Certification.~~

1. The Athletic Trainer Certificate is issued pursuant to South Carolina Code Sections 44-75-10 et seq. and this regulation. The issuance of a Certificate does not guarantee adequacy of individual care, treatment, personal safety, or well-being of any Patient.

2. The Athletic Trainer Certificate is not assignable or transferable and shall be subject to denial, suspension, or revocation by the Department for failure to comply with the South Carolina Code of Laws and this regulation.

3. The Athletic Trainer Certificate shall be effective for a twenty-four (24) month period following the date of issue by the Department.

4. The Athletic Trainer shall carry the identification Certificate card issued by the Department while performing his or her duties and present the identification Certificate card when requested.

C. Initial Application. Applicants for an initial Athletic Trainer Certificate shall submit to the Department a completed application on a form prescribed, prepared, and furnished by the Department prior to issuance of an initial Certificate. The applicant shall submit, along with the application, documentation that he or she has successfully passed the Athletic Trainer certification exam as administered by the Board of Certification, Inc. or its successors or assigns.

D. Certification Fees. The applicant shall pay a certification fee of fifty dollars (\$50.00) prior to issuance of an initial Certificate. The applicant shall pay a biennial certification renewal fee of forty dollars (\$40.00) prior to renewal of the certification. The renewal late fee shall be fifteen dollars (\$15.00). The Athletic Trainer shall pay one hundred dollars (\$100.00) to restore his or her certification. The Athletic Trainer shall pay seven dollars (\$7.00) for duplicate Certificates and identification Certificate cards. All fees shall be non-refundable. Athletic Trainers and Athletic Trainer applicants shall submit payment of certification fees with each application to the Department by check, money order, or other means as determined by the Department. (II)

E. Certification Renewal. To renew his or her certification, the Athletic Trainer shall submit a complete and accurate biennial renewal application on a form prescribed and furnished by the Department, shall pay the biennial renewal fee, and shall not have pending enforcement actions by the Department.

1. The Athletic Trainer shall submit the following with the biennial renewal application:

a. Proof of Continuing Education pursuant to Section 500; and

b. Proof of current certification by the Board of Certification, Inc., or its successors or assigns.

2. The Athletic Trainer who fails to submit his or her renewal application and biennial renewal fee by his or her certification expiration date shall be deemed to have an expired Certification.

3. The Athletic Trainer who submits his or her renewal application, biennial renewal fee, and renewal late fee within three (3) months after his or her certification expired may be reinstated at the Department's discretion. The Athletic Trainer who submits his or her renewal application, biennial renewal fee, and certification restoration fee more than three (3) months after his or her certification expired may be restored at the Department's discretion.

### **103. Temporary Certification Hold.**



The Athletic Trainer who is active duty military service member or spouse may request a temporary hold on his or her certification while actively deployed outside of South Carolina. The Athletic Trainer requesting a temporary certification hold shall submit a written request in a format as determined by the Department including the effective dates of deployment. The Athletic Trainer granted a temporary certification hold shall notify the Department upon return from active duty in a manner determined by the Department.

#### **E104. Reciprocity. (II)**

~~Certification by Reciprocity: A eCertificate may be issued by the Department to any qualified aAthletic tTrainer holding certification in any other state if such other state recognizes the eCertificate of South Carolina in the same manner. The applicant must meet the following requirements for reciprocal certification. Applicants for reciprocal certification shall submit to the Department a completed application, on a form prescribed, prepared, and furnished by the Department prior to certification by reciprocity. The applicant for reciprocity shall submit documentation with the reciprocity application that he or she is currently credentialed as an Athletic Trainer under the laws of another state or territory. (II)~~

- ~~1. The applicant is currently certified to practice athletic training under the laws of another state or territory.~~
- ~~2. The requirements for said certification are equivalent to those required in South Carolina.~~
- ~~3. The applicant's certificate has not been, and is not presently, suspended or revoked.~~

#### **F. Exemption from Certification.**

~~No person shall represent him or herself as an athletic trainer unless he or she is certified by the Department, except as otherwise provided in this section. Exemptions apply as follows:~~

- ~~1. Licensed, registered, or certified professionals such as licensed physicians, nurses, physical therapists, and chiropractors practicing their professions are exempt if they do not assert to the public by any title or description as being athletic trainers.~~
- ~~2. A person rendering services that are the same as or similar to those within the scope of practice provided for in the Law is exempt as long as he or she is otherwise now employed or employed in the future as a faculty or staff member at the school in question and does not represent him or herself to be an athletic trainer.~~
- ~~3. Persons employed prior to June 19, 1984 by the State Department of Education, local boards of education, or private secondary or elementary schools for the treatment of injuries received by students participating in school sports activities are exempt.~~
- ~~4. An person serving as a student trainer or in any similar position if the service is carried out under the supervision of a licensed physician or certified athletic trainer is exempt.~~

#### **G. Grandfather Provision.**

~~—The Department may issue a certificate to an applicant who was actively engaged as an athletic trainer for a two year period from June 19, 1979 to June 19, 1984. The applicant shall submit the following for documentation:~~

- ~~— 1. A notarized record of being employed on a salaried basis with an educational institute or bona fide athletic organization for the duration of the institution’s school year, or the length of the athletic organization’s season and performed the duties of an athletic trainer as the major responsibility of his employment.~~
- ~~— 2. A certified oath verifying that the documents submitted to the Department are “true and accurate”.~~
- ~~— 3. Payment of an application fee as prescribed by the Department.~~

**H105. Change of Name and/or Address.**

~~1A. Change of Name: A The Athletic Trainer shall request for a change of name from that under which the original eCertificate was issued shall be accompanied by submitting to the Department a certified copy of a marriage certificate, court order, or documentation of legal name change and appropriate payment of the duplicate Certificate fee. See fee schedule.~~

~~2B. Change of Address: Each person who has a certificate shall keep the Department apprised in writing of any change in his or her current name and address his or her contact information in CIS current at all times. The Athletic Trainer shall ensure current information, including name, address, contact information, and other required information by the Department, is maintained in the Department’s credentialing information system and submit any changes to the Department within forty-five (45) calendar days of the change.~~

**I. Professional Identification.**

~~1. Titles and Abbreviations: A person certified by the Department to practice and perform athletic training in South Carolina may use the title, “State Certified Athletic Trainer and/or the abbreviation S.C.A.T.”.~~

~~2. Production and Display of Certificate: A person certified by the Department to practice and perform athletic training in South Carolina shall carry said original card at all times, and show said original card when requested.~~

**106. Variance.**

The Athletic Trainer may request a Variance to this regulation in a format as determined by the Department. Variances shall be considered on a case-by-case basis by the Department. The Department may revoke issued Variances as it determines appropriate.

**SECTION 200 – ENFORCING REGULATIONS**

**201. General.**

The Department shall utilize Inspections, Investigations, Consultations, and other pertinent documentation regarding an Athletic Trainer to enforce this regulation.

**202. Inspections and Investigations.**

A. The Department may conduct Inspections and Investigations as deemed appropriate by the Department.

B. Athletic Trainers shall be subject to Inspections and Investigations at any time without prior notice by individuals authorized by the Department.

C. The Athletic Trainer shall grant the Department access to all properties and areas, objects, equipment, records, and documentation. The Athletic Trainer shall provide the Department all requested records and documentation in the manner and within the timeframe specified by the Department. The Athletic Trainer shall provide photos and/or electronic copies of documents requested by the Department in the course of Inspections and Investigations. These copies shall be used for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. (I)

D. When there is noncompliance with this regulation, the Athletic Trainer shall submit an acceptable plan of correction in a format determined by the Department. The plan of correction shall be signed by the Athletic Trainer and returned by the date specified by the Department. The plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

### **203. Consultations.**

The Department may provide Consultations as requested by the Athletic Trainer or as deemed appropriate by the Department.

## **SECTION 300 – ENFORCEMENT ACTIONS**

### **301. General.**

A. The Department may suspend or revoke a Certificate at any time it is determined that the Certificate holder no longer meets the prescribed qualifications set forth by the Department or has failed to provide athletic training services of a quality acceptable by the Department.

B. When the Department determines that an Athletic Trainer is in violation of any statutory provision or regulation relating to the duties therein, the Department may, upon proper notice to the individual, impose a monetary penalty, deny, suspend, and/or revoke his or her certification, or authorization or take other actions deemed appropriate by the Department.

### **302. Violation Classifications.**

A. Violations of standards in this regulation are classified as follows:

1. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of the persons being served, other employees, or the general public; or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be a subsequent violation.

2. Class II violations are those that are not classified as Class I or Class III violations the Department determines to have a negative impact on the health, safety, or well-being of those being served, other employees, or the general public. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be a subsequent violation.

3. Class III violations are those that are not classified as Class I or II in this regulation or those that are against the best practices as interpreted by the Department. A physical condition or one or more practices, means, methods, operations, or lack thereof may constitute such a violation. Each day such violation exists may be a subsequent violation.

B. The notations “(I)” or “(II)” placed within sections of this regulation indicate those standards are considered Class I or II violations if they are not met respectively. Failure to meet standards not so annotated are Class III violations.

C. Monetary Penalties. When the Department imposes a monetary penalty, the following schedule shall be used as a guide to determine the dollar amount:

<u>FREQUENCY OF VIOLATION</u>	<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>
<u>1<sup>st</sup></u>	<u>\$300-500</u>	<u>\$100-300</u>	<u>\$50-100</u>
<u>2<sup>nd</sup></u>	<u>500-1,500</u>	<u>300-500</u>	<u>100-300</u>
<u>3<sup>rd</sup></u>	<u>1,500-5,000</u>	<u>500-1,500</u>	<u>300-800</u>
<u>4<sup>th</sup> or more</u>	<u>10,000</u>	<u>1,500-5,000</u>	<u>800-1,500</u>

**303. Standards of Conduct. (I)**

The Department may deny, suspend, or revoke an Athletic Trainer’s Certificate and impose a monetary penalty against an Athletic Trainer for the following:

A. Used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with any of the certification requirements or official documents required by the Department;

B. Convicted of a felony or another crime involving moral turpitude, drugs, or gross immorality;

C. Addicted to alcohol or drugs to such a degree as to render the Certificate holder unfit to perform as an Athletic Trainer;

D. Sustained a physical or mental disability that renders further practice dangerous to the public;

E. Obtained fees or assisted in the obtaining of such fees under dishonorable, false, or fraudulent circumstances;

F. Disregarded an order by a Physician concerning care or treatment;

G. Refused to administer care or treatment on the grounds of the age, gender, race, religion, creed or national origin of the Patient;

H. After initiating care of a Patient, discontinued such care or abandoned the Patient without the Patient’s consent or without providing for the further administration of care by an equal or higher medical authority;

I. Revealed confidences entrusted to him or her in the course of medical attendance, unless such revelation is required by law or is necessary in order to protect the welfare of the Patient or the community;

J. By action or omission, and without mitigating circumstance, contributed to or furthered the injury or illness of a Patient under the care of the Athletic Trainer;

K. Performed skills above the level for which the Athletic Trainer is certified or performed skills for which he or she has no training to perform;

L. Observed the administration of substandard care by another Athletic Trainer or other healthcare provider without documenting the event and notifying a supervisor or Physician;

M. By his or her actions, or inactions, created a substantial possibility that death or serious physical harm could result; or

N. Falsified any documentation as required by the Department.

#### **SECTION 400 – ATHLETIC TRAINERS’ ADVISORY COMMITTEE**

A. Organization. The South Carolina Athletic Trainers’ Advisory Committee shall consist of nine (9) members appointed by the Board. The terms of the Committee members are for four (4) years or until successors are appointed. The Committee members appointed by the Board shall consist of the following:

1. Two (2) members shall be representatives from the Department;

2. One (1) member shall be from the State Board of Medical Examiners;

3. Four (4) members shall be Athletic Trainers certified by the Department; and

4. Two (2) members shall be from the general public, not certified or licensed in any healthcare field, and not in any way associated with Athletic Trainers.

B. Meetings. The Committee shall meet at least once a year to review the standards and regulations for improving athletic training services and make recommendations to the Department.

J. Continuing Education.

#### **SECTION 500 – CONTINUING EDUCATION**

~~1. Definition and Philosophy: Each individual certified as an athletic trainer is responsible for service to the consumer and is accountable to the consumer, the employer, and the profession for evidence of maintaining high levels of skill and knowledge. Continuing education is defined as education beyond the basic preparation required for entry into the profession, directly related to the performance and practice of athletic training.~~

~~2. Requirements: Regulations set the requirement for attending and completing two Athletic Trainers shall complete the following Continuing Education courses during the two (2) year certification period. These courses are as follows:~~

~~aA. A course in cardiopulmonary resuscitation (CPR) offered by the American Red Cross or the American Heart Association or any other cardiopulmonary resuscitation (CPR) course approved by the South Carolina Athletic Trainers' Advisory Committee (SCATAC) the Department; and~~

~~bB. A designated professional seminar offered yearly by the SCATA at the Association's annual conference. Two (2) Continuing Education courses approved by the Department in consultation with the Athletic Trainers' Advisory Committee.~~

~~e. A seminar shall mean two (2) designated courses within the scope of that year's annual meeting or conference.~~

~~d. The development of the course content and the monitoring of the courses will be under the supervision of the Committee.~~

~~e. At the completion of the appropriate courses during the seminar, a card will be issued to the athletic trainer by a member of the Committee.~~

~~f. Equivalent courses may be approved by the Committee.~~

~~g. The Committee will set the continuing education standards on an annual basis.~~

~~3. Reporting Procedures for Continuing Education: It is the responsibility of the athletic trainer to submit to the Department, by the renewal date of certification, proof of the completion of the continuing education requirements. Documentation shall include:~~

~~a. A photocopy of a current CPR card from either the American Red Cross or the American Heart Association or any other CPR course approved by SCATAC; and~~

~~b. A photocopy of the SCATA professional seminar card, signed by a member of the committee.~~

~~4. Enforcement: Without documentation of the required continuing education, as outlined in J.2 and J.3 above, an athletic trainer's certification will not be renewed at the two year renewal date. Documentation for the continuing education units must be current at the time of renewal.~~

~~5. Appeals: If the athletic trainer is unable to obtain the proper continuing education units by the time of renewal, he/she may submit a letter of appeal with the renewal application. This letter must document the reason(s) the athletic trainer was unable to obtain the necessary continuing education units. The Committee will recommend the course of action to be taken.~~

#### **K. Revocation, Suspension and Denial of Certification; Penalties; Appeals Process.**

~~1. Standards of Conduct: At the discretion of the Department, athletic trainers may have their certificates suspended or revoked at any time the Department determines that the holder of the certificate no longer meets the prescribed qualifications set forth by the Department or has committed any of the following acts:~~

~~a. Has engaged in any conduct considered by the Board or Department to be detrimental to the profession of athletic training;~~

~~b. Has used fraud or deceit in procuring or, attempting to procure, a certificate or renewal of a certificate to practice athletic training;~~

- c. Has violated, aided, or abetted others in violation of any provision of the law, or these regulations;
- d. Has practiced athletic training without a valid certificate.

**2. Penalties:**

Any person violating the provisions of Sections 44-75-10 et seq. is guilty of a misdemeanor and upon conviction must be punished by a fine of not less than twenty five (\$25) nor more than two hundred dollars (\$200).

3. Actions: The Committee may recommend revocation or suspension of a certificate. Revocation may be for a period up to two years.

4. Appeals Process: Decisions to deny, suspend or revoke an athletic trainer's certification becomes the final agency decision fifteen (15) days after notice of the Department decision has been mailed to the applicant or holder of the certificate by certified mail, return receipt requested, unless a written request for final review is filed with the DHEC Board by the applicant or holder of the certificate pursuant to Section 44-1-60 of the S.C. Code of Laws, 1976, as amended, and applicable law.

**L. Athletic Trainers' Advisory Committee.**

1. Organization: The South Carolina Athletic Trainers' Advisory Committee shall consist of nine members appointed by the Board. Two members must be from the Department, one must be from the State Board of Medical Examiners, four must be certified athletic trainers and two must be from the general public who are not certified or licensed in any health care fields and are not in any way associated with athletic trainers.

2. Officers: The Advisory Committee shall annually elect a chairman and vice chairman from its membership. These two officers shall have all the privileges of re-election.

3. Meetings: The Committee must meet at least once a year. Additional meetings may be held on call of the chairman or at the written request of two Committee members. A record must be kept of all transactions which have been called for by the chairman and a written report shall be submitted for the minutes at the next regularly scheduled meeting. A quorum of two thirds of the Committee membership is required for any meeting of the Committee.

**M. Responsibilities of the Department.**

The South Carolina Department of Health and Environmental Control, with the advice of the Committee, shall:

- 1. Coordinate with the Committee chairman to develop and distribute an agenda for committee meetings.
- 2. Post public notices of upcoming Committee meetings per the Freedom of Information Act and notify the media of the meetings. The following statement shall be read by the chairman of the Committee at the beginning of each public meeting: "Let the minutes reflect that, as required by the provisions of the South Carolina Freedom of Information Act, Section 30-4-80(E) of the S.C. Code of Laws, 1976, as amended, notification of this meeting has been given to all persons, organizations, local news media and other news media which have requested such notification".
- 3. Assure that the Committee's address and telephone number is listed in the state telephone directory.

~~4. Take Committee meeting minutes, type, and send to the chairman for signature within two weeks after the meeting. The Department will distribute the minutes to committee members within one week after receiving a signature from the chairman.~~

~~5. Receive applications for athletic trainer certification and process for routine action. Unusual applications will be brought before the full Committee. If there is a problem, or if the Department needs additional information, the applicant is notified in writing of the delay by the Department.~~

~~6. Collect application fees, certification renewal fees, and other fees deemed necessary for the certification program. These fees are non-refundable to the applicant.~~

~~7. Maintain a record of each athletic trainer's certification expiration date.~~

~~8. Work with the Committee chairman to develop a formal budget for the Committee.~~

~~9. Develop and maintain an inquiry log to track all correspondence related to the athletic trainer's certification program and record all complaints.~~

~~10. Develop and update a rules and regulations manual for the certification program.~~

~~11. Investigate violations and complaints and follow up with proper legal procedures.~~

#### **SECTION 600 – [RESERVED]**

#### **SECTION 700 – PATIENT CARE AND RECORDS. (II)**

A. The Athletic Trainer shall render services and treatment under the advice and consent of a licensed Physician including general written or oral standing orders and/or protocols signed by a licensed Physician.  
(I)

B. The Athletic Trainer shall be responsible for recording details of the Patient's health care status. The Athletic Trainer shall maintain an organized permanent record for each Patient that contains written documentation of all care, treatment, and services provided to the Patient including:

1. Injury and Illness Prevention and Wellness Promotion. The Athletic Trainer shall promote healthy lifestyle behaviors with effective education and communication to enhance wellness and minimize the risk of injury and illness for every Patient to assure the highest quality of care.

2. Immediate and Emergency Care. The Athletic Trainer shall provide immediate and emergency care integrating best practices for optimal outcomes.

3. Examination, Assessment, and Diagnosis. The Athletic Trainer shall assess the Patient's level of function prior to treatment. The Athletic Trainer shall consider the Patient's input as an integral part of the initial assessment. The Athletic Trainer shall implement systematic, evidence-based examinations and assessments to formulate valid clinical diagnoses and determine each Patients' plan of care.

4. Therapeutic Intervention. The Athletic Trainer shall develop the treatment program and determine the appropriate treatment, rehabilitation, and/or reconditioning strategies for each Patient's injuries, illnesses, and general medical conditions. The Athletic Trainer shall ensure the treatment program objectives include long-term and short-term goals and appraisal with the goal of the Patient achieving



optimal activity level based on athletic training core concepts using the applications of therapeutic exercise, modality devices, and manual techniques. The Athletic Trainer shall incorporate and utilize the assessment measure to determine the effectiveness of the treatment program. The Athletic Trainer shall integrate best practices in policy construction and implementation, documentation, and basic business practices to promote optimal Patient care.

C. Program Discontinuation. The Athletic Trainer, with advice and consent of a licensed Physician, shall recommend discontinuation of athletic training services when the Patient has received optimal benefit of the treatment program. The Athletic Trainer shall document and maintain documentation of the final assessment of the Patient's status and the date the Patient was discontinued from the treatment program.

**SECTION 800 – [RESERVED]**

**SECTION 900 – [RESERVED]**

**SECTION 1000 – [RESERVED]**

**SECTION 1100 – [RESERVED]**

**SECTION 1200 – [RESERVED]**

**SECTION 1300 – [RESERVED]**

**SECTION 1400 – [RESERVED]**

**SECTION 1500 – [RESERVED]**

**SECTION 1600 – [RESERVED]**

**SECTION 1700 – [RESERVED]**

**SECTION 1800 – [RESERVED]**

**SECTION 1900 – [RESERVED]**

**SECTION 2000 – [RESERVED]**

**SECTION 2100 – [RESERVED]**

**SECTION 2200 – [RESERVED]**

**SECTION 2300 – [RESERVED]**

**SECTION 2400 – [RESERVED]**

**SECTION 2500 – [RESERVED]**

**SECTION 2600 – [RESERVED]**

**SECTION 2700 – SEVERABILITY**

In the event that any portion of this regulation is construed by a court of competent jurisdiction to be invalid or otherwise unenforceable, such determination shall in no manner affect the remaining portions of this regulation, and they shall remain in effect as if such invalid portions were not originally a part of this regulation.

## **SECTION 2800 – GENERAL**

Conditions that have not been addressed in this regulation shall be managed in accordance with the best practices as interpreted by the Department.

### **Fiscal Impact Statement:**

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

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

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

DESCRIPTION OF REGULATION: 61-96, Athletic Trainers.

Purpose: The Department amends R.61-96 to update provisions in accordance with current practices and standards. The Department further revises for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. The proposed amendments incorporate and revise provisions relating to statutory mandates.

Legal Authority: 1976 Code Sections 44-75-10 et seq.

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

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

The amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for Athletic Trainers applying for certification and incorporate provisions delineating requirements in continuing education, documentation, and the incorporation of statutory change allowing for monetary penalties. The amendments revise and incorporate requirements regarding Department inspections and investigations, maintenance of accurate and current contact information, and other requirements for licensure. The amendments also update the structure of the regulation throughout for consistency with other Department regulations.

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

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

**UNCERTAINTIES OF ESTIMATES:**

None.

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

The proposed amendments to R.61-96 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for Athletic Trainers. There are no anticipated effects on the environment.

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

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

**Statement of Rationale:**

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

The Department of Health and Environmental Control amends R.61-96. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for Athletic Trainers applying for certification and incorporate provisions delineating new requirements for continuing education, patient care, and documentation requirements, and the incorporation of statutory change allowing for monetary penalties. The amendments revise and incorporate requirements regarding Department inspections and investigations, maintenance of accurate and current contact information, and other requirements for licensure.

**ATTACHMENT B**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**Document No. 4996  
R.61-96, Athletic Trainers**

**As of the October 26, 2020, close of the Notice of Proposed Regulation comment period:**

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
1. Zachary Richards	100	Not Adopted.  101. A. The current definition matches statute.  102.D. The ten (10) year budget projection does not justify fee changes.
<p><b>COMMENT:</b> "Athletic trainers (ATs) are highly qualified, multi-skilled health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education, training and the state's statutes, rules and regulations. As a part of the health care team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions."- This is a direct quote from the National Athletic Trainers Association on what an athletic trainer is. In the last meeting, we go cross-referenced with personal trainers, which we are not associated with in any way. We have indeed allied health professionals.</p> <p>Also, it is imperative that we get our fees raised to make sure that we have the budget to keep up with the ever-increasing demands. Athletic trainers are only gaining popularity in this state, not losing it and we need those increased funds to help @DHEC as well as to provide top-notch continuing education for our profession. I understand that we are in a pandemic so increasing fees doesn't seem wise, but at some point, these fees have to be increased.</p>		
<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
2. Shelley Taylor Athletic Trainer White Knoll High School	100	Not Adopted.  101.A. The current definition matches statute.  102.D. The ten (10) year budget projection does not justify fee changes.
<p><b>COMMENT:</b> "Athletic trainers (ATs) are highly qualified, multi-skilled health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education, training and the state's statutes, rules and regulations. As a part of the health care team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions."- This is a direct quote from the National Athletic Trainers Association on what an athletic trainer is. In the last meeting, we go cross-referenced with personal trainers, which we are not associated with in any way. We have indeed allied health professionals.</p>		

Also, it is imperative that we get our fees raised to make sure that we have the budget to keep up with the ever-increasing demands. Athletic trainers are only gaining popularity in this state, not losing it and we need those increased funds to help @DHEC as well as to provide top-notch continuing education for our profession. I understand that we are in a pandemic so increasing fees doesn't seem wise, but at some point, these fees have to be increased."

NAME	SECTION	DEPARTMENT RESPONSE
3. Krista Richards Athletic Trainer	N/A	Acknowledged.  Statute requires the Department to issue certifications.

**COMMENT:** As an athletic trainer, I deal with the community, coworkers and employers who do not fully understand what I do or the scope of my abilities as a healthcare provider. We need to move to licensure and educate stakeholders to improve this. This is very important for athletic trainers ability to perform at the highest level and gain respect. I think this directly affects work-life balance and work satisfaction.

NAME	SECTION	DEPARTMENT RESPONSE
4. Lisa Richards	100	Not Adopted.  101.A. The current definition matches statute.  102.D. The ten (10) year budget projection does not justify fee changes.

**COMMENT:** "Athletic trainers (ATs) are highly qualified, multi-skilled health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education, training and the state's statutes, rules and regulations. As a part of the health care team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions."- This is a direct quote from the National Athletic Trainers Association on what an athletic trainer is. In the last meeting, we go cross-referenced with personal trainers, which we are not associated with in any way. We have indeed allied health professionals.

**COMMENT:** Also, it is imperative that we get our fees raised to make sure that we have the budget to keep up with the ever-increasing demands. Athletic trainers are only gaining popularity in this state, not losing it and we need those increased funds to help @DHEC as well as to provide top-notch continuing education for our profession. I understand that we are in a pandemic so increasing fees doesn't seem wise, but at some point, these fees have to be increased."

NAME	SECTION	DEPARTMENT RESPONSE
5. Jason Wimberly Manager of Athletic Training Prisma Health Orthopedics	N/A	Not Adopted.  101.A The current definition matches statute.  102.D The ten (10) year budget projection does not justify fee changes.

**COMMENT:** Athletic trainers (ATs) are highly qualified, multi-skilled health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education, training and the state's statutes, rules and regulations. As a part of the health care

team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions. The NATA Code of Ethics states the principles of ethical behavior that should be followed in the practice of athletic training.

Athletic trainers are sometimes confused with personal trainers. There is, however, a large difference in the education, skillset, job duties and patients of an athletic trainer and a personal trainer. The athletic training academic curriculum and clinical training follows the medical model. Athletic trainers must graduate from an accredited baccalaureate or master's program, and 70% of ATs have a master's degree. Athletic Trainer education requirements are transitioning to a Master Degree minimum in order to practice.

NAME	SECTION	DEPARTMENT RESPONSE
6. Jared Williams Athletic Trainer University of South Carolina	101, 104, 303, 700	Not Adopted:  101.A Definition. The current definition matches statute.  104 Reciprocity. Amended to provide clarity.  303. J. Corrected  Section 700 Adopted.

**COMMENT:** My first comment is on Section A.3.e. of current regulation and what would become Section 101.A of the proposed regulation defining athletic trainers. I understand the replication of definition from South Carolina Code Section 44-75-50 (although it states healthcare here but health in the statute) but I would be remised to not propose the following definition and rationale. "Athletic Trainer. An allied health professional with specific qualifications as set forth in South Carolina Code Section 44-75-50 who, upon the advice and consent of a licensed physician, render care, treatment, or service, under the direction of or in collaboration with the licensed physician, in accordance with their education and training and the states statutes and regulations. As a part of the health care team, services provided by athletic trainers include injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention, and rehabilitation of injuries and medical conditions." The rationale is this is adaptation from the National Athletic Trainers' Association glossary and terminology that is more specific and inclusive of athletic training services.

Section E. Reciprocity of the current regulation and what would become Section 104. Reciprocity leaves question marks regarding the timeliness of short-term activities and I don't have the clarity that is referenced in the section-by-section discussion of the amendment.

I am interested to hear more about Section 107. of the proposed regulation and Variance.

Section 303.J of the proposed regulation has a spelling error in which "an" should be "a".

I appreciate the addition of Section 700 in the proposed regulation as it pertains to patient care and records. However, I think it's just a regurgitation of the previous regulation Section B that outlined

domains of practice and I think it is worth considering the following information and verbiage to align with current BOC Practice Analysis.

-Injury and Illness Prevention and Wellness Promotion: Promoting healthy lifestyle behaviors with effective education and communication to enhance wellness and minimize the risk of injury and illness.

-Examination, Assessment and Diagnosis: Implementing systematic, evidence-based examinations and assessments to formulate valid clinical diagnoses and determine patients' plan of care.

-Immediate and Emergency Care: Integrating best practices in immediate and emergency care for optimal outcomes.

-Therapeutic Intervention: Rehabilitating and reconditioning injuries, illnesses and general medical conditions with the goal of achieving optimal activity level based on core concepts (i.e., knowledge and skillsets fundamental to all aspects of therapeutic interventions) using the applications of therapeutic exercise, modality devices and manual techniques).

-Healthcare Administration and Professional Responsibility: Integrating best practices in policy construction and implementation, documentation and basic business practices to promote optimal patient care and employee well-being.

**COMMENT:**

Overall the omission and consolidation of information, along with the additions create a document that is more clear, readable, grammatically correct and an overall improvement to the current regulation and inclusive of statutory change. I recognize the consistency added with other DHEC healthcare regulations as well.

NAME	SECTION	DEPARTMENT RESPONSE
7. Eugenio Thomen Certified Athletic Trainer	100	Not Adopted.  101.A. The current definition matches statute.  102.D The ten (10) year budget projection does not justify fee changes.

**COMMENT:** "Athletic trainers (ATs) are highly qualified, multi-skilled health care professionals who render service or treatment, under the direction of or in collaboration with a physician, in accordance with their education, training and the state's statutes, rules and regulations. As a part of the health care team, services provided by athletic trainers include primary care, injury and illness prevention, wellness promotion and education, emergent care, examination and clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions."- This is a direct quote from the National Athletic Trainers Association on what an Athletic Trainer is. In the last meeting, we got cross-referenced with personal trainers, which we are not associated with in any way. We are indeed allied health professionals.

Also, it is imperative that we get our fees raised to make sure that we have the budget to keep up with the ever-increasing demands. Athletic Trainers are only gaining popularity in this state, not losing it and we need those increased funds to help @DHEC as well as to provide top-notch continuing education for our profession. I understand that we are in a pandemic so increasing fees doesn't seem wise, but at some point, these fees have to be increased."

NAME	SECTION	DEPARTMENT RESPONSE
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8. Alexander Hawkins Athletic Trainer Federal Law Enforcement Training Center		Acknowledged.
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**COMMENT:** i approve what has been submitted.

NAME	SECTION	DEPARTMENT RESPONSE
9. Kevin Ennis	102, 104, 105	Partially Adopted.  102.D The ten (10) year budget projection does not justify fee changes.  104. Reciprocity: Amended for Clarity  Table of Contents: Adopted. Will be revised to match amendments.  The Exemption section was removed as this is in statute and not necessary for the regulation.

**COMMENT:** I am in agreement with the recommendations proposed by the DHEC Healthcare Quality Team and feel that all recommendations currently proposed by the SC DHEC Athletic Trainers' Advisory Committee (SCATAC) should be included. The SCATAC recommendation to increase fees (Section 102. D. Certification Fees) is a must, as is the clarification of Reciprocal Certification (Section 104. Reciprocity.), the inclusion of Exemption from Certification (Section 105. Exemption from Certification.), and revising the Table of Contents (Section 100-Definitions and Certification) to reflect the recommended changes must also be included.

NAME	SECTION	DEPARTMENT RESPONSE
10. Jeremy Searson President South Carolina Athletic Trainers' Association	102, 104, 105	Partially Adopted.  102.D The ten (10) year budget projection does not justify fee changes.  104. Reciprocity: Amended for Clarity  The Exemption section was removed as this is in statute and not necessary for the regulation

**COMMENT:**  
102. Certification.  
Certification Fees.

The applicant shall pay a Certification fee of one hundred dollars (\$100.00) prior to issuance of an initial Certificate. The applicant shall pay a biennial Certification renewal fee of seventy five dollars (\$75.00) prior to renewal of the Certification. The renewal late fee shall be twenty five dollars (\$125.00). The Athletic Trainer shall pay one hundred twenty five dollars (\$125.00) to restore his or her Certification. The Athletic Trainer shall pay twenty dollars (\$20.00) for duplicate Certificates and identification Certificate cards. All fees are nonrefundable. The applicant or Athletic Trainer shall submit payment of Certification fees with each application to the Department by check, money order,



or other means as determined by the Department. (II)

Justification - The suggestions by the DHEC AT Advisory Board are inline with the mission of the organization. An increase in funds will allow for the group to stay solvent and continue to promote the education of Athletic Trainers across the state with the partnership they current hold with the South Carolina Athletic Trainers' Association to provide high quality educational opportunities to continue to support the the profession of athletic training across the state.

#### 104. Reciprocity. (II)

Applicants for reciprocal Certification shall submit to the Department a completed application, on a form prescribed, prepared, and furnished by the Department prior to Certification by reciprocity. Athletic Trainers from other states or territories performing athletic training duties for camps, events, tournaments and other activity and caring for the general population of said activity(s) must apply for reciprocal certification. The applicant for reciprocity shall submit documentation that he or she is currently credentialed as an Athletic Trainer under the laws of another state or territory with the reciprocal application.

#### Temporary Reciprocal Certification

Athletic Trainers from other states or territories performing athletic training duties assigned by their employer for secondary school, club, collegiate and professional organizations or individuals participating in events, tournaments, and other short term activities need not apply for reciprocal certification in caring for only those athletes to which they are assigned. The visiting Athletic Trainer must provide current proof of credentialing from his/her home state when requested.

Justification - Is will provide clarity to the reciprocity law for athletic trainers traveling with out of state patients. It maintains the high level of care required by the state by mandating the individual is credentialed appropriately and concurrently in their home state.

#### Section 105. Exemption from Certification.

Any person serving in a athletic training student or similar position if the service is carried out under the direct supervision of a State Certified Athletic Trainer.

Justification - This exemption should only be applied to individuals that are currently enrolled in athletic training educational programs. It is also essential that the position state that DIRECT supervision is necessary. Direct supervision allows for the State credentialed Athletic Trainer to intervene on behalf of both the patient and the athletic training student should the need arise.

<b>NAME</b>	<b>SECTION</b>	<b>DEPARTMENT RESPONSE</b>
11. Jeremy Searson President South Carolina Athletic Trainers' Association	100	Not Adopted.  The existing requirements for the Athletic Trainers' Advisory Committee are set by statute.

#### **COMMENT:**

My previous statement would not allow me to add more comments.

#### L. Athletic Trainers' Advisory Committee.

1. Organization: The South Carolina Athletic Trainers' Advisory Committee shall consist of nine members appointed by the Board. Two members must be from the Department, one must be from the State Board of Medical Examiners, four must be certified athletic trainers, on representative of the

South Carolina Athletic Trainers Association and two must be from the general public who are not certified or licensed in any health care fields and are not in any way associated with athletic trainers.

2. Officers: The Advisory Committee shall annually elect a chairman and vice-chairman from its membership. These two officers shall have all the privileges of re-election.

4. Term Limits: The South Carolina Athletic Trainers' Advisory Committee shall serve for 4 years after an initial appointment and can be reappointed to a second term if they desire to continue to serve.

Justification - The South Carolina Athletic Trainers' Association is the professional organization for Athletic Trainers in the state of SC. A representative from the Board which is elected by state certified athletic trainers would provide an improved representation from the state athletic trainers and improve community input to the board. Term limits will help to encourage the continual progression of the board and increase accessibility to a diverse population of athletic trainers across the state. A plan should be implemented to ensure institutional stability while progressing the board forward by injecting new members in a planned and targets manner. A representative from the SCATA could serve as an ad hoc member for a period of 2 years in their role as past-president.

C. Licensure.

Justification - While I understand this may not be the medium to change the credentialing level from certification to licensure, I do want to reiterate as a Healthcare Provider that the level of certification should be at the Licensure. This level represents the level of credential associated with our peers across the Allied Health Field and across the country. South Carolina is one of the last 3 states in the nation to be credentialed at the licensure level. In this future this may impact the reciprocity that our Athletic Trainers have as they look to serve their patient population when on the road and out of state. Raising the level of credential to licensure will also provide better protections to the patient population of the state as well as the athletic trainer as a professional in the healthcare field.

NAME	SECTION	DEPARTMENT RESPONSE
12. Susan Yeargin Associate Professor University of South Carolina	100	Partially Adopted.  Prior Section A2e: 101.A Definition. The current definition matches statute.  Prior Section 2.A.h.: was removed.  Prior Section B: was removed.  Prior Section C.: DHEC does not have statutory authority.  Prior Section G: Adopted

**COMMENT:** Section A2e: consider wording "injuries in physically active populations".  
Section 2Ah: add "industrial" or "manufacturing" or something along those lines to be inclusive of athletic trainers who in the occupational setting. (clarify)  
Section B: please remove "the" in front of college or university undergraduate degree. A certified athletic trainer will need "a" undergraduate degree, but "the" degree that pertains to athletic training can be at either undergraduate or masters. (clarify)  
Section C: please consider supporting changing our state from certification to licensure.

Section G: please consider removing. No one should be practicing in this state if their BOC athletic training certification is not current.  
 Section J2b: please allow us to use the continuing education we submit to maintain our BOC athletic training certification for the South Carolina certification instead of requiring we attend the SCATA annual conference. Section L: please add committee member term limits (specific number of service years and specific number of years allowed for renewal of service).

NAME	SECTION	DEPARTMENT RESPONSE
13. George Wham Co-Head Athletic Trainer River Bluff High School	N/A	Acknowledged.

**COMMENT:** Wanted to take a moment and let you know I support the current changes proposed in the regulation of athletic training in SC. South Carolina deserves no less.

NAME	SECTION	DEPARTMENT RESPONSE
15. Kevin Ennis Vice Chair SC DHEC Athletic Trainers' Advisory Committee	N/A	Partially Adopted.  The Table of Contents will be updated to match the amended sections.

**COMMENT:** TABLE OF CONTENTS

SECTION 100 – DEFINITIONS AND CERTIFICATION

- 101. Definitions.
- 102. Certification Requirements.
- 103. Temporary Certification Hold.
- 104. Reciprocity.
- 105. Grandfather Provision Exemption from Certification.
- 106. Change of Name or Address Grandfather Provision.
- 107. Variance Change of Name or Address.
- 108. Variance.

The Committee recommends the above changes to the Table of Contents Section 100-Definitions and Certification to reflect recommended changes contained in this document.

NAME	SECTION	DEPARTMENT RESPONSE
16. Kevin Ennis Vice Chair SC DHEC Athletic Trainers' Advisory Committee	102	Not Adopted.  102.D The ten (10) year budget projection does not justify fee changes.

**COMMENT:** 102. Certification.

Certification Fees.

The applicant shall pay a Certification fee of fifty one hundred dollars (\$50.00 100.00) prior to issuance of an initial Certificate. The applicant shall pay a biennial Certification renewal fee of forty seventy five dollars (\$40.00 75.00) prior to renewal of the Certification. The renewal late fee shall be fifteen twenty five dollars (\$15.00 25.00). The Athletic Trainer shall pay one hundred twenty five dollars (\$100 125.00) to restore his or her Certification. The Athletic Trainer shall pay seven twenty dollars (\$7 20.00) for duplicate Certificates and identification Certificate cards. All fees are

nonrefundable. The applicant or Athletic Trainer shall submit payment of Certification fees with each application to the Department by check, money order, or other means as determined by the Department. (II)

Comments. The Committee recommends the above increase in Certification Fees for the financial well-being of the program and to sustain the Department’s ability to administer the program relying on the stakeholders to fund the program. Based on information provided by the Department (ATHLETIC TRAINER Fee Projection Template, Prepared: 01/06/2020) the program funding will be “in the red” in 2024 thus become a financial burden to the Bureau, Department and ultimately, the tax payer. We encourage the Healthcare Quality Team to consider the proposed Fee Increase and to be proactive in recommending it be included in this revision to the Regulation. At the earliest, the revised Regulation will go into effect mid-2021 which is just three years before the program goes into the red. Justifications for an increase include; the number of Athletic Trainers in South Carolina has grown to over 1000 at the present time, technology is more readily available to assist with activities, credentialing, tracking, etc. and needs to be purchased, the program now has staff assigned spending a greater amount of time administering the program and is experiencing increased human resource costs, and the cost of doing business is significantly greater than it was 36 years ago along with bringing South Carolina more in line with neighboring states Fee Schedules for the Regulation of Athletic Trainers. This increase is designed to allow for the continued promotion of Athletic Training in South Carolina through education and regulation for many years to come and is the first request for an increase in fees since the inception of the Act in 1984.

NAME	SECTION	DEPARTMENT RESPONSE
17. Kevin Ennis Vice Chair SC DHEC Athletic Trainers' Advisory Committee	104	Not Adopted.  104. Reciprocity: Amended for Clarity

**COMMENT:** 104. Reciprocity. (II)

Applicants for reciprocal Certification shall submit to the Department a completed

application, on a form prescribed, prepared, and furnished by the Department prior to Certification by reciprocity. Athletic Trainers from other states or territories performing athletic training duties for collegiate and professional organizations or individuals participating in events, camps, tournaments, and other short term activities shall apply for reciprocal Certification. camps, events, tournaments and other activity and caring for the general population of said activity(s) must apply for reciprocal certification. The applicant for reciprocity shall submit documentation that herhe or she is currently credentialed as an Athletic Trainer under the laws of another state or territory with the reciprocal application.

**Temporary Reciprocal Certification**

Athletic Trainers from other states or territories performing athletic training duties assigned by their employer for secondary school, club, collegiate and professional organizations or individuals participating in events, tournaments, and other short term activities need not apply for reciprocal certification in caring for only those athletes to which they are assigned. The visiting Athletic Trainer must provide current proof of credentialing from his/her home state when requested.

Comments. The Committee recommends the above changes for Section 104. Reciprocity. A. and the inclusion of Section 104. Reciprocity. B. Temporary Reciprocal Certification. This is intended to clarify who is and who is not required to apply for Reciprocal Certification. The key to this definition is who the Athletic Trainer is caring for. In the past, there has been significant confusion of who does and does not need apply. If left as currently written, every Athletic Trainer entering the state working as an Athletic Trainer must apply for Reciprocal Certification. This creates an unnecessary administrative burden on the Bureau to certify these individuals and increases costs of the program along with unjustly causing financial harm to Athletic Trainers travelling with teams/individuals for games, etc.

NAME	SECTION	DEPARTMENT RESPONSE
18. Kevin Ennis Vice Chair SC DHEC Athletic Trainers' Advisory Committee	105	Not Adopted  Grandfather 105. was reverted back to original language and removed.

**COMMENT:** Section 105. Grandfather Provision Exemption from Certification.

Any person serving in a student athletic training aide or similar position if the service is carried out under the supervision of a State Certified Athletic Trainer.

The Committee recommends the above change as this is the only exemption to certification and should be included. Including this will require the re-numbering of all Sections that follow.

106. Change of Name or Address Grandfather Provision.

107. Variance Change of Name or Address

108. Variance

The Committee recommends the above changes due to the inclusion of a paragraph for Exemption from Certification.

Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Bureau of Water

**Re: Public Hearing for Notice of Final Regulation Amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, Document No. 4997**

## I. Introduction

The Bureau of Water (“Bureau”) proposes the attached Notice of Final Regulation amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*. Legal authority resides in S.C. Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 *et seq.*, which authorizes the South Carolina Department of Health and Environmental Control (“Department”) to promulgate applicable regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

## II. Facts


1. The Bureau proposes amending R.61-43 to incorporate Act 139 of 2018, which amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes. The Bureau also proposes amendments to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.
2. The Department had a Notice of Drafting published in the June 26, 2020, *State Register*.
3. Appropriate Department staff conducted an internal review of the proposed amendments on August 3, 2020.
4. The Bureau held seven stakeholder meetings between March 28, 2019, and October 26, 2020, to solicit stakeholder input, including open-invitation meetings, in-person and virtually, and individual interest groups. The Bureau utilized the Department’s website and agency calendar to advertise these meetings and emailed invitations to identified stakeholders. The Bureau received feedback from stakeholders and considered their comments and suggestions regarding the proposed changes to the regulation.
5. The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from five people by the October 26, 2020, close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.

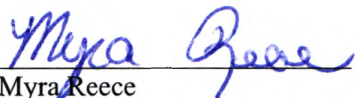
6. On October 26, 2020, the Department held a stakeholder meeting to discuss the proposed changes and to inform them that public comments needed to be submitted that day.

7. After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting and published in the September 25, 2020, *State Register*. Descriptions of the changes appear in Attachment B, Summary of Public Comments and Department Responses.

### III. Request for Approval

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, for submission to the General Assembly.

  
Dr. Michael Marcus  
Bureau Chief, Bureau of Water

  
Myra Reece  
Director of Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R. 61-43, *Standards for the Permitting of Agricultural Animal Facilities***

**December 10, 2020**

Document No. 4997

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

Statutory Authority: 1976 Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.

61-43. Standards for the Permitting of Agricultural Animal Facilities.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) amends R.61-43, Standards for the Permitting of Agricultural Animal Facilities, to incorporate Act 139 of 2018, which amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes.

The Department also amends the regulation to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The Department published a Notice of Drafting in the June 26, 2020, *South Carolina State Register*.

**Instructions:**

Replace R.61-43, Standards for the Permitting of Agricultural Animal Facilities, in its entirety with this amendment.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

61-43. Standards for the Permitting of Agricultural Animal Facilities.

(Statutory Authority: S.C. Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.)

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**~~Part 50. General Definitions.~~**

**PART 50**  
**GENERAL DEFINITIONS**

For purposes of this regulation, the following definitions apply:

“Active Animal Facility” means a facility with a minimum of 30,000 pounds normal production animal live weight and in production.

“Affected Person” means a property owner with standing within a one (1)-mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable Department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities.

~~A.~~ “Agricultural animal” means an animal confined in an agricultural facility.

~~B.~~ “Agricultural facility” means a lot, building, or structure, which is used for the commercial production of animals in an animal facility.

~~C.~~ “Agronomic rate” is means the animal manure and other animal by-products’ application rate designed: (1) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or

vegetation grown on the land ~~and~~; (2) to minimize the amount of nitrogen in the animal manure that passes below the root zone of the crop or vegetation grown on the land to ~~the groundwater and~~; (3) to provide the amount of other organic and inorganic plant nutrients which promote crop or vegetative growth, such as calcium-carbonate equivalency; and (4) to provide the amount of phosphorus needed by the crop or vegetation grown on the land without causing an excessive buildup of phosphorus in the soil.

~~D.~~ “Animal” means any domesticated animal.

~~E.~~ “Animal by-product” means a secondary or incidental product of animal production that may include bedding, spilled feed, water or soil, milking center washwater, contaminated milk, hair, feathers, dead animals or other debris. This definition may also refer to dead animal or animal manure compost.

~~F.~~ “Animal facility” means an agricultural facility where animals are confined and fed or maintained for a total of forty-five (45) calendar days or more in a twelve (12)-month period and crops, vegetative, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of animal manure and other animal by-products from animals in the operation also are part of the animal facility. Two (2) or more animal facilities under common ownership or management are considered to be a single animal facility if they are adjacent ~~or utilize a common system for animal manure storage.~~

~~G.~~ “Animal Facility Management Plan” means a plan prepared by the United States Department of Agriculture’s Natural Resources Conservation Service (USDA-NRCS) or a professional engineer detailing the management, handling, treatment, storage, or utilization of manure generated in an animal facility. This plan shall include facility management details and a detailed map of each manure utilization area showing all buffer zones and setbacks, a description of the land use, the crops grown on the site, the timing for application of ~~swine~~ manure to the land and a land use agreement if the site is not owned by the permittee.

“Animal Feeding Operation” means a lot or facility where animals have been, are, or will be stabled or confined and fed for a total of forty-five (45) calendar days or more in any twelve (12)-month period.

~~H.~~ “Animal manure” means animal excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

~~I.~~ “Annual animal manure application rate” ~~is~~ means the maximum amount of animal manure that can be agronomically applied to a unit area of land during any 365-day period.

~~J.~~ “Annual constituent loading rate” means the maximum amount of a constituent that can be applied to a unit area of a manure utilization area during any 365-day period.

“Application rate” means the amount of manure applied at any one time.

“Approval to Operate (ATO)” means a letter from the Department granting approval to place the facility into operation.

~~K.~~ “Average animal live weight” means the sum of the average exit weight of the animal from the facility and the average entry weight divided by two, as shown by the following formula:

$$\text{Average animal live weight} = (\text{Average Exit Weight} + \text{Average Entry Weight})/2$$

~~L.~~ “Broker” means a person who accepts or purchases ~~dry~~ animal manure or other animal by-products from agricultural facilities and transfers this product to a third party for land application.

“Certification of Construction” means a document, certified by the consultant, PE, or NRCS staff, that a certain construction project has been completed in accordance with the terms, conditions, and specifications contained in the permit of applicable regulations.

~~M:~~“Closed facility” means an animal facility that has ceased operations (no confined animals at the facility) and is no longer in production, and all lagoons and waste storage ponds have been properly closed out and cannot be placed back into operation without a new permit.

~~N:~~“Commercial Facility” means an animal facility that produces animals or animal by-products for commercial sale, boards animals, rents animals, or provides a service utilizing the animals for a fee.~~The facility is considered commercial if the owner earned at least one thousand dollars gross farm income in at least three of the first five years.~~

~~O:~~“Compost” ~~is~~means an organic soil conditioner that has been stabilized to a humus-like product, is free of viable human and plant pathogens and plant seeds, does not attract insects or vectors, can be handled and stored without nuisance, and is beneficial to the growth of plants.

~~P:~~“Composting” ~~is~~means the biological decomposition and stabilization of organic substrates, under conditions that allow development of thermophilic temperatures as a result of biologically produced heat, to produce a final product that is stable, free of pathogens and plant seeds, and can be beneficially applied to land. Composting requires special conditions of moisture and aeration to produce thermophilic temperatures.

“Concentrated Animal Feeding Operation (CAFO)” means as defined by the Environmental Protection Agency (EPA).

“Confined Animal Manure Management (Camm) Certification” means an operator, manager, or owner of an animal facility or manure utilization area, has received certification by completing a class and passing an exam that is provided by Clemson University, Clemson Extension, the South Carolina Department of Health and Environmental Control, and the USDA Natural Resource Conservation Service.

~~Q:~~“Constituent limit” ~~is~~means a numerical value that describes the amount of a constituent allowed per unit amount of animal manure (e. g., milligrams per kilogram of total solids); the amount of a constituent that can be applied to a unit area of land (e. g., pounds per acre); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

~~R:~~“Cover crop” ~~is~~means ~~a small grain crop,~~ a vegetative crop, including, but not limited to, oats, wheat, or barley; grasses; or other crop grown for agronomic use or to maintain topsoil and prevent soil erosion.

“Critical Habitat” means the term used to define those areas of habitat containing physical and biological features that are essential for an endangered or threatened species to recover and that require special management or protection.

~~S:~~“Cumulative constituent loading rate” means the maximum amount of a constituent that can be applied to an area of land.

~~T:~~“Cumulative impacts” means an increase or enlarging of impact to the environment or community by the successive addition or accumulation of animal facilities in an area.

Ⓜ:“CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA shall be according to Pub. L. 92-500 notation.

Ⓝ:“Deemed Permitted Facility” means an agricultural animal facility that held a valid permit from the Department for their swine facility prior to July 1, 1996, or for their animal facility prior to June 26, 1998.

Ⓞ:“Department” means the South Carolina Department of Health and Environmental Control.

“Discharge” means any release, emission or dismissal of sewage, industrial waste, agriculture waste, or other waste into any Waters of the State, whether treated or not.

“Downwind Receptors” means virtual three-dimensional coordinates placed off site where the concentrations of emissions would be measured for comparison to air quality standards.

Ⓟ:“Dry manure” means manure, bedding, litter, feed losses, or composted animal material (animal manure or dead animals) that is not in a liquid form. Dry animal manure can normally be easily handled with a shovel or other similar equipment and it can be placed in piles without liquid manure or leachate drainage occurring.

Ⓠ:“Dry weight basis” means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100 percent solids content).

Ⓡ:“EPA” means the United States Environmental Protection Agency.

Ⓢ:“Ephemeral stream” means a stream that flows only in direct response to rainfall or snowmelt in which discrete periods of flow persist no more than twenty-nine (29) consecutive days per event.

“Evergreen Buffer” means plants such as trees, shrubs, or grasses that have foliage that remain green and functional through at least more than one growing season and are not deciduous.

Ⓣ:“Excessive Mortality” means total animal mortality in any one twenty-four (24)-hour period that exceeds the design capacity of the normal method of dead animal disposal. This may include utilizing the barns to compost the excessive mortality.

Ⓤ:“Expansion” means an increase in the permitted number of animals or normal production animal live weight at the facility that will result in physical construction at the facility. ~~For facilities with a lagoon, treatment system or manure storage pond, expansion means an increase due to construction in the maximum capacity of the existing lagoon, treatment system or manure storage pond as determined using the appropriate design standards of the United States Department of Agriculture’s Natural Resource Conservation Service.~~ An animal manure treatment lagoon that is converted to an animal manure storage pond is considered an expansion of the facility. For facilities permitted prior to 1998, where the treatment/storage design function was not clearly specified, the Department shall review the facility’s operation records and compliance history to determine the current function and condition of the manure handling structures. If the existing structure can handle additional animals, without physical alteration, significant changes in the original function of the structure, or any significant increase in odor, the Department may allow this increase in animals without classifying the change as an expansion.

“Feedlot” means an animal feeding operation (AFO) which is used in intensive animal farming for finishing livestock.

~~DD~~: “FEMA” means the Federal Emergency Management Agency.

~~EE~~: “Feed crops” ~~are~~ means crops produced primarily for consumption by animals. These include, but are not limited to: corn, grains, and grasses.

~~FF~~: “Fiber crops” ~~are~~ means crops including, but not limited to, flax and cotton.

~~GG~~: “Floodplain” means land adjacent to water bodies that periodically becomes temporarily inundated with water during or after rainfall events. The land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years is the 100-year floodplain. The 100-year flood has a ~~1%~~ one percent (1%) probability of occurring in one given year.

~~HH~~: “Food crops” ~~are~~ means crops produced primarily for human consumption. These include, but are not limited to, fruits, vegetables, and grains, ~~and tobacco~~.

“Footprint” means the area of ground covered by an agricultural facility (i.e., the part of the property where the animal facility is constructed).

“Freeboard” means additional capacity in a storage/treatment structure designed to provide a safety margin of storage in the event that a rainfall occurs when the structure is full. The design storm is normally a twenty-five (25) year storm of twenty-four (24) hours duration.

~~II~~: “Groundwater” ~~is~~ means water below the land surface in the saturated zone.

“Inactive Facility” means an animal facility that is not considered in production, but the facility and/or lagoon(s)/waste pond(s) have not been properly closed out. The owner/operator/permittee will continue to pay the annual fees throughout the inactive period of the permit, will be required to maintain the facility and/or lagoon(s)/waste storage pond(s), and will be inspected by the Department on a routine basis.

~~JJ~~: “Integrator” or “Integrating company” means any entity or person(s) who contracts with agricultural animal producers to grow animals to be supplied to this person(s) at the time of removal from the animal growing houses or facilities and exercises substantial operational control over an animal facility, along with the owner/operator of the facility. Substantial operational control includes, but is not limited to, the following: directs the activities of persons working at the animal facility either through a contract, direct supervision, or on-site participation; owns the animals; or specifies how the animals are grown, fed, or medicated. This definition does not include independent producers that contract with other independent producers to accomplish a portion of the animal growing process under contract.

~~KK~~: “Intermittent stream” means a stream that generally has a defined natural watercourse, which does not flow year-round but flows beyond periods of rainfall or snowmelt.

~~LL~~: “Lagoon” means an impoundment used in conjunction with an animal facility, the primary function of which is to store or stabilize, or both, manure, organic wastes, wastewater, and contaminated runoff.

~~MM~~: “Land application” ~~is~~ means the spraying or spreading of manure or other animal by-products onto the land surface; the injection of manure below the land surface into the root zone; or the incorporation of manure into the soil so that the manure can either condition the soil or fertilize crops or vegetation grown in the soil.

“Land Applier” means any person who accepts or purchases manure or other animal by-products from agricultural facilities for use as a fertilizer or soil enhancer on land either owned, leased, or managed by the land applier.

~~NN~~: “Large Animal Facility” means an animal facility (excluding swine facilities) that has a capacity for more than 500,000 pounds and less than 1,000,000 pounds of normal production animal live weight at any one time.

~~OO~~: “Large Swine Facility” means a swine facility with a capacity for greater than 500,000 pounds and less than 1,000,000 pounds of normal production animal live weight at any one time.

~~PP~~: “Liquid manure” means manure that by its nature, or after being diluted with water, can be pumped easily and ~~which~~ is removed, either intermittently or continuously, from an animal lagoon, manure storage pond, or treated effluent from other types of animal manure treatment systems.

~~QQ~~: “Manure” means the fecal and urinary excretion of livestock and poultry. This material may also contain bedding, spilled feed, water, or soil. It may also include wastes not associated with livestock excreta, such as milking center washwater, contaminated milk, hair, feathers, or other debris. Manure may be described in different categories as related to solids and moisture content, such as dry manure and liquid manure.

~~RR~~: “Manure storage pond” means a structure used for impounding or storing manure, wastewater, and contaminated runoff as a component of an agricultural manure management system. Manure is stored for a specified period of time, one (1) year or not less than ninety (90) calendar days, and then the pond is emptied. This definition does not include tanks or other similar vessels.

~~SS~~: “Manure utilization area” means land on which animal manure (including swine manure) is spread as a fertilizer and is synonymous with land application site or land application area

“Mass Burial Site” means an area of land approved by the Department designated to be a mass burial site for excessive mortality.

~~TT~~: “mg/l” means milligrams per liter.

~~UU~~: “NRCS” ~~is~~means the Natural Resources Conservation Service of the United States Department of Agriculture.

~~VV~~: “NRCS-CPS” ~~is~~means the Natural Resources Conservation Service’s Conservation Practice Standards as given in the USDA-NRCS, SC Handbook of Conservation Practices.

~~WW~~: “Normal production animal live weight at any one time” means the maximum number of animals at the facility at any one time multiplied by the average animal live weight of those animals.

“Notice of Intent (NOI)” means a document provided by the Department used by an applicant to notify the surrounding property owners of the applicant’s intent to construct a permitted animal facility.

~~XX~~: “Nuisance” means a condition causing annoyance or danger ~~or annoyance~~ to a limited number of persons or to the general public as determined by the Department.

“Operator” means the person(s) who manage(s) a permitted animal facility and may be CAMM certified.

“Outstanding Recreational or Ecological Resource Waters (ORW)” means waters which are of exceptional recreational, ecological importance, or of unusual value. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources; or waters used for or having significant value for scientific research and study.

“Owner” means the proprietor of any facility of activity subject to this regulation.

~~YY:~~ “Pasture” is means land on which animals feed directly on feed crops including, but not limited to, legumes, grasses, grain stubble, or stover.

“Permit” means any license, certificate, registration, variance, or other approval issued by or required by the Department or any of its divisions, pursuant to any statute or regulation.

“Permit Extension” means a one (1)-year extension with justification that must be applied for in writing ten (10) calendar days prior to the permit expiration date.

“Permit Modification” means a minor or moderate change to a facility’s permit that is considered, as determined by the Department, to not change the general operations of the permitted site but is necessary to continue the regulated operation of the facility. Permit Modifications are not required to be Public Noticed.

“Permittee” means any person authorized to conduct any activity or business pursuant to a valid permit issued by or filed with the Department.

“Permitting Decision” means any decision by the Department to issue, modify, deny, or withdraw the permit.

~~ZZ:~~ “Person” means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, co-partnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

“Plant Available Nitrogen (PAN)” means the quantity of nitrogen made available during the growing season after fertilizing materials are applied. A certain amount of the nitrogen is immobilized, and the remaining nitrogen is available to the plant.

~~AAA:~~ “Potable water well” means any well designed and/or constructed to produce potable water for consumption by humans or animals.

~~BBB:~~ “Producer” is means a person who grows or confines animals; a person responsible for the manure produced at an animal facility; a person processing manure; and/or a person responsible for the land application of manure.

“Production” means a facility that meets the permit requirements based on 30,000 pounds of Normal Production Animal Live Weight.

~~CCC:~~ “Professional Engineer” or “Engineer” is means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering



analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, all as attested by his or her legal registration as a professional engineer in ~~this State~~ South Carolina.

“Public Hearing” means a proceeding, properly noticed in accordance with applicable state and federal laws, during which comments are received and testimony is taken to establish a record of concern prior to an administrative action by the Department.

“Public Notice” means the notice of an application or of proposed agency action published in accordance with applicable statutes and regulations.

~~DDD~~: “Range land” is means open land with indigenous vegetation.

“Ranged Animal Facility” means the size of the range area is sufficient to allow for the natural degradation or utilization of the manure with no adverse impact to the environment. Ranged facilities shall also maintain adequate vegetative buffers between the animal range and the adjacent property lines and/or Waters of the State to mitigate runoff from reaching adjacent property and/or Waters of the State.

“Replacement in Kind” means construction of the same size or less of animal growing barn(s), and the same number or less of animal live weight, at the same location as the barn(s) being replaced.

~~EEE~~: “Residence” means a permanent inhabited dwelling, any existing church, school, hospital, or any other structure which is routinely occupied by the same person or persons more than twelve (12) hours per day or by the same person or persons under the age of eighteen (18) for more than two (2) hours per day, except those owned by the applicant.

“Rolling Average” means the laboratory results from the most recent analysis averaged with the previous manure analysis for a particular form of manure. The rolling average analysis sequence should be restarted after any major modification or changes to the lagoon/waste storage pond.

“Routinely” means a regular course of procedure.

~~FFF~~: “Runoff” is means rainwater or other liquid that drains overland on any part of a land surface and runs off of the land surface.

~~GGG~~: “Seasonal High Water Table” is means the surface between the zone of saturation and the zone of aeration, where the pore water pressure is equal to atmospheric pressure, and which exhibits the shallowest average water depth in relation to the surface during the wettest season.

~~HHH~~: “Small Animal Facility” means an animal facility (other than swine) that has a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

~~HH~~: “Small Swine Facility” means a swine facility with a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

~~HH~~: “Source Water Protection Area” means an area either above and/or below ground that is the source of water for a public drinking water system via a surface water intake or a water supply well that is designated by the State for increased protection.

“South Carolina National Heritage Corridor” means a National Heritage Area, federally designated in 1996, spanning seventeen (17) counties and 320 miles across South Carolina, and committed to promoting and preserving the cultural, natural, and historic resources of South Carolina.

~~KKK~~: “State” means ~~the State of~~ South Carolina.

“Surface Water Runoff” means the flow of water that occurs when excess stormwater, meltwater, or other sources flows over the Earth’s surface.

~~LLL~~: “Swine” means a domesticated animal belonging to the porcine species.

~~MMM~~: “Swine by-product” means a secondary or incidental product of swine production that may include bedding, spilled feed, water or soil, ~~milking center washwater, contaminated milk hair, feathers,~~ dead swine, or other debris. This definition may also refer to dead swine or swine manure compost.

~~NNN~~: “Swine facility” means an agricultural facility where swine are confined and fed or maintained for a total of forty-five (45) calendar days or more in a twelve (12)-month period and crops, vegetative, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of swine manure from swine in the operation ~~are also~~ are part of the swine facility. Two or more swine facilities under common ownership or management are considered ~~to be~~ a single swine facility if they are adjacent or utilize a common system for swine manure treatment and/or storage. For any new or expanding swine facility, the combined normal production of all swine facilities owned by the producer, and of all swine facilities owned by corporations having a common majority shareholder in common with the producer, within ~~twenty-five~~ 25 miles of the new or expanding facility shall be used to determine the normal production of the new or expanding facility. For example, when a new facility has a proposed capacity of 300,000 pounds of normal production and the producer owns two (2) other swine facilities within ~~twenty-five~~ 25 miles of the new or expanding swine facility and the normal production of each facility is 400,000 pounds, the proposed swine facility’s normal production is 1,100,000 (300,000 + 400,000 + 400,000) pounds.

~~OOO~~: “Swine manure” means swine excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

~~PPP~~: “µg/l” means ~~microgram per liter~~.

~~QQQ~~: “Vector” means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

“Waiver” means a document recording the deferral of a right, claim, or privilege.

“Waste Storage Pond” means an earthen waste impoundment that temporarily stores organic wastes such as manure and wastewater.

~~RRR~~: “Wastewater” means any water ~~which that~~, during the confinement of animals or the handling, storage, or treatment of manure, dead animals, and litter, ~~etc~~ comes into contact with the animals, manure, litter, or spilled feed, ~~etc~~. Wastewater includes, but is not limited to, wash waters, contaminated milk, and storm water (except storm water runoff from land application areas where the application of manure has been properly applied) that comes into contact with manure.

~~SSS~~: “Watershed” means a drainage area contributing to a river, lake, or stream.

~~FFF~~“Waters of the State” means lakes, bays, sounds, ponds, impounding reservoirs, springs, artesian wells, rivers, perennial and navigable streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. This definition does not include ephemeral or intermittent streams. This definition includes wetlands as defined in this section.

~~UUU~~“Wetlands” means lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands shall be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and hydrophytic vegetation. All three criteria shall be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.

“X-Large Animal Facility” means an animal facility (excluding swine) with 1,000,000 pounds or more of normal production animal live weight at any one time.

“X-Large Swine Facility” means a swine facility with 1,000,000 pounds or more of normal production animal live weight at any one time.

## PART 100 SWINE FACILITIES

### **100.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of the Regulation.**

#### A. Purpose.

1. To establish standards for the growing or confining of swine, processing of swine manure and other swine by-products, and land application of swine manure and other swine by-products in such a manner as to protect the environment, and the health and welfare of citizens of the State from pollutants generated by this process.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the utilization of swine manure and other swine by-products generated at swine facilities. Standards included in this part are for swine manure and other swine by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for producers who operate swine facilities.

4. To establish standards for the proper operation and maintenance of swine facilities.

5. To establish criteria for swine facilities’ and manure utilization areas’ location as they relate to protection of the environment and public health ~~and welfare as outlined by statute~~. The location of swine facilities and manure utilization areas as they relate to zoning in an area is not covered in this regulation. Local county or municipal governments may have zoning requirements and ~~these~~this regulations neither interfere~~s~~ with nor restrict~~s~~ such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

B. Applicability.

1. This part applies to:

- a. All new swine facilities;
- b. All expansions of existing swine facilities;~~and~~
- c. New manure utilization areas for existing swine facilities;
- d. All inactive facilities; and
- e. All facilities and lagoon closures.

2. This part applies to all swine manure and other swine by-products applied to the land.

3. This part applies to all land where swine manure and other swine by-products are applied.

C. Inactive Facilities.

1. If a swine facility is ~~closed~~inactive for two (2) years or less, a producer may resume operations of the facility under the same conditions by which it was previously permitted by notifying the Department in writing that the facility is being operated again.

2. For swine facilities that have been ~~closed~~inactive for more than two (2) years but less than five (5) years, the Department shall review the existing permit and modify its operating conditions as necessary prior to the facility being placed back into operation.

3. For swine facilities that have been ~~closed~~inactive for more than five (5) years, the producer shall properly close out any lagoon, treatment system, or manure storage pond associated with the facility. The closeout shall be accomplished in accordance with Regulation R.61-82, Proper Closeout of Wastewater Treatment Facilities. The permittee shall submit a closeout plan that meets at a minimum NRCS-CPS within a time frame prescribed by the Department. Additional time may be granted by the Department to comply with the closeout requirement or to allow a producer to apply for a new permit under this regulation, as appropriate.

4. If a swine facility is ~~closes~~inactive for more than five (5) years, the permit is considered expired and the producer shall apply for a new permit. All requirements under this regulation R.61-43 shall be met before the facility can resume operations.

5. During the closeout of the facilities and/or lagoons/waste storage ponds, annual fees are required to be paid until proper closeout is certified and approved.

D. Facilities Permitted Prior to the Effective Date of the Regulation.

1. All existing swine facilities with permits issued by the Department before July 1, 1996, do not need to apply for a permit as they are deemed permitted (~~deemed permitted swine facilities~~) swine facilities unless they have been ~~closed~~ inactive for more than two (2) years or expand operations. These facilities shall meet the following sections of Part 100: Section 100.20 (Permits and Compliance Period); Section 100.90 items A, G, and N--T (General Requirements for Lagoons, Treatment Systems, and Manure Storage Ponds);

Section 100.100 ~~items B.1. 22.~~ (Manure Utilization Area Requirements); Section 100.110.G.-J. (Spray Application System Requirements); Section 100.120 A, C, and D (Frequency of Monitoring for Swine Manure); Section 100.130 A, B, C items 2-3 (Dead Swine Disposal Requirements); Section 100.140 A, C-J (Other Requirements); Section 100.150 B-G (Odor Control Requirements); Section 100.160 B-D (Vector Control Requirements); Section 100.170 (Record Keeping); Section 100.180 (Reporting); Section 100.190 A--F; (Training Requirements); and Section 100.2400 (Violations). The capacity of a deemed permitted facility is the maximum capacity of the existing lagoon, treatment system, or manure storage pond as determined using swine lagoon, treatment system, or manure storage pond capacity design standards of the United States Department of Agriculture's Natural Resource Conservation Service.

2. All existing swine facilities with permits issued by the Department between July 1, 1996, and the effective date of ~~these~~these regulations do not need to apply for a new permit if they hold a valid permit from the Department, unless they have been ~~closed~~inactive for more than two (2) years. These facilities shall meet all the requirements of ~~these~~these regulations.

3. All existing swine facilities that were constructed and placed into operation prior to July 1, 1996, but have never received an agricultural permit from the Department, shall apply for a permit from the Department. These facilities shall meet all the requirements of this regulation, as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

4. An existing facility may be required to submit for approval an updated Animal Facility Management Plan on a case-by-case basis by the Department. The Department shall notify the permittee in writing of this requirement. The permittee ~~shall submit this updated plan within a time frame prescribed by the Department~~has six (6) months or an agreed upon time frame from the date of notification to submit an updated Animal Facility Management Plan. Failure to submit the updated plan within this time frame is a violation of the South Carolina Pollution Control Act and ~~these~~these regulations, and may result in permit revocation.

5. Both the setbacks and other requirements for manure utilization areas shall be met when a new manure utilization area (MUA) is added by the owner of any swine facility regardless of when the facility was permitted.

6. If an existing facility regulated under Part 200 of ~~these~~these regulations proposes to convert to a swine facility, it shall be considered a new swine facility under ~~these~~these regulations. Converted facilities shall be permitted as new swine facilities and meet all criteria for new swine facilities before they begin operation as a swine facility.

7. If an existing swine facility proposes to expand operations or increase the number of permitted swine such that it falls into a new size classification, the facility shall be considered a new swine facility in that size classification under ~~these~~these regulations. The facility shall meet all the requirements for the new classification.

## **100.20. Permits and Compliance Period.**

A. Permit Requirement. Swine manure and other swine by-products from a new or expanded swine facility can only be generated, handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department under the provisions of this part. Existing producers that are required by the Department to update their Animal Facility Management Plan shall meet the requirements of this part to the extent practical as determined by the Department.

~~B. Large Swine Facilities with 1,000,000 pounds or more normal production live weight must also apply for an individual National Pollutant Discharge Elimination System (NPDES) permit for Confined Animal Feeding Operations (CAFO) in accordance with the provisions of Regulation 61-9.~~

~~CB.~~ Permits issued under this regulation are no-discharge permits.

~~DC.~~ The requirements in this part shall be implemented through a permit issued to any producer who operates a swine facility where swine manure and other swine by-products are generated, handled, treated, stored, processed, or land applied.

~~ED.~~ The requirements under this part may be addressed in permits issued to producers who only land apply swine manure and other swine by-products.

~~FE.~~ Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, except as otherwise noted, prior to any change in operations at a permitted facility, including, but not limited to, the following:

1. Change in ownership and control of the facility. The Department has thirty (30) calendar days from the receipt of a complete and accurate notification of transfer of ownership to either: request additional information regarding the transfer or the new owner; deny the transfer; or approve the transfer of ownership. If the Department does not act within thirty (30) calendar days, the transfer is automatically approved. If additional information is requested by the Department in a timely manner, the Department shall act on this additional information, when it is received, within the same time period as the initial notification.

2. Increase in the permitted number of swine.

3. Increase in the normal production animal live weight of the existing permitted swine facility.

4. Addition of manure utilization areas.

5. Change in swine manure and other swine by-products treatment, handling, storage, processing, or utilization.

6. Change in method of dead swine disposal.

~~GF. Permit Modification.~~ Permit modifications for items 100.20.~~FE~~.3 and 100.20.~~FE~~.5 for facilities regulated under this part, which shall result in expansions, shall adhere to the requirements of this part and other applicable statutes, regulations, or guidelines.

~~HG.~~ Permit modification for items 100.20.~~FE~~.2-3 which result in an expansion may be required to obtain new written waivers or agreements for reduction of setbacks from adjoining property owners (if applicable).

### **100.30. Exclusions.**

The following do not require permits from this part unless specifically required by the Department under Section 100.30.G.

A. Existing swine facilities that are deemed permitted under Section 100.10.D.1. are excluded from applying for a new permit unless an expansion is proposed, a new manure utilization areas is added, or it is required by the Department. New manure utilization areas added to an existing facility shall meet the appropriate requirements in this part. However, deemed permitted facilities shall meet the requirements of

this regulation as outlined in Section 100.10.D-1- (Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of the Regulation).

B. Except as given in Section 100.30.G, swine facilities that do not have a lagoon, manure storage pond, or liquid manure treatment system, having 10,000 pounds or less of normal production animal live weight at any one time, are excluded from obtaining a permit from the Department. However, these facilities shall have and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

C. Except as given in Section 100.30.G, swine facilities that do not have a lagoon, manure storage pond, or liquid manure treatment system, having more than 10,000 pounds of normal production animal live weight at any one time and less than 30,000 pounds of normal production animal live weight at any one time, are excluded from obtaining a permit from the Department. However, these facilities shall submit an Animal Facility Management Plan to the Department and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

D. Except as given in Section 100.30.G, ranged swine facilities where the size of the range area is sufficient to allow for natural degradation or utilization of the swine manure with no adverse impact to the environment are excluded from obtaining a permit from the Department. Ranged facilities shall also maintain adequate vegetative buffers between the swine range and Waters of the State.

E. Except as given in Section 100.30.G, swine facilities that ~~do~~ are not ~~produce~~ classified as swine for commercial purposes are excluded from obtaining a permit from the Department.

F. Except as given in Section 100.30.G, swine facilities that hold valid permits issued by the Department are not required to obtain a new permit if they decide to replace in kind any of the swine growing houses. ~~If the permittee chooses to leave the old swine houses in place to utilize for another purpose other than housing animals, the Department shall perform a preliminary site inspection for the proposed location of the replacement houses and approve the site prior to construction.~~

G. Swine F facilities exempted under Sections 100.30.A, B, C, D, E, and F may be required by the Department to obtain a permit. The Department shall visit the site before requiring any of these facilities to obtain a permit.

#### **100.40. Relationship to Other Regulations.**

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~B.~~ A. Applications, application fees, and the time schedules governing the review of applications, and annual operating fees are addressed in Regulation R.61-30, Environmental Protection Fees.

~~C.~~ B. The proper closeout of wastewater treatment facilities is addressed in Regulation R.61-82, Proper Closeout of Wastewater Treatment Facilities. This includes swine lagoons and manure storage ponds.

~~D.~~ Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.

~~E.C.~~ Setbacks and construction specifications for potable water wells and monitoring wells shall be in accordance with ~~Regulation~~R.61-71, Well Standards.

~~F.D.~~ Permits for air emissions from incinerators are addressed in ~~Regulation~~R.61-62, Air Pollution Control Regulations and Standards.

~~G.E.~~ Disposal of swine lagoon sludge in a municipal solid waste landfill unit is addressed in ~~Regulation~~R.61-107.25819, Solid Waste Management: Solid Waste Landfills and Structural Fill.

~~H.F.~~ Disposal of swine manure with domestic or industrial sludge is addressed in ~~Regulation~~R.61-9, Water Pollution Control Permits, and permitted under R.61-9.

~~I.~~ ~~Procedures for contested cases are addressed in Regulation 61-72 and Rules of the State's Administrative Law Judge Division.~~

~~J.G.~~ Laboratory Certification is addressed in ~~Regulation~~R.61-81, State Environmental Laboratory Certification Program.

~~K.H.~~ Water Classifications and Standards are addressed in ~~Regulation~~R.61-68.

#### **100.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).**

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for a preliminary site inspection shall be made using a form, ~~as designated~~ provided by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan. Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new swine facility or expand an existing swine facility shall make application for a permit under this part using an application form ~~as designated~~ provided by the Department. The following information shall be included in the application package.

1. A completed and accurate application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service (NRCS) personnel or a S.C. registered professional engineer (PE). Other qualified individuals, such as certified soil scientists, etc., or S.C. registered professional geologists (PG), may prepare the land application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall, at a minimum, contain:

a. Facility name, address, telephone numbers, email address (if applicable), county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning or land use restrictions in this area (this information is available from the county);

c. Applicant's name, address, email, and telephone number (if different from above);



- d. Operator's name and CAMM number;
- e. Facility capacity;
  - i. Number of swine;
  - ii. Pounds of normal production animal live weight at any one time;
  - iii. Amount in gallons of swine manure generated per year;
  - iv. Description of swine manure storage and storage capacity of lagoon, treatment system, or manure storage pond (if applicable); and
  - v. Description of swine manure and other swine by-products treatment (if any).
- f. Concentration of constituents in swine manure including, but not limited to, the constituents given below:
  - i. Nutrients.
    - (a) Nitrate. (Only needed for aerobic treatment systems)
    - (b) Ammonium-Nitrogen.
    - (c) Total Kjeldahl Nitrogen (TKN).
    - (d) Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen)
    - (e) P<sub>2</sub>O<sub>5</sub>
    - (f) K<sub>2</sub>O (potash).
  - ii. Constituents.
    - (a) Copper.
    - (b) Zinc.
  - iii. Name, address, S.C. lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new swine facilities, swine manure analysis information does not have to be initially submitted as the Department shall use swine manure analysis from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in the review of the application. Analysis of the actual swine manure generated shall be submitted to the Department six (6) months after a new swine facility starts operation or prior to the first application of swine manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Swine manure and other swine by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the swine manure and other swine by-products application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, email, and telephone number of the producer(s) that will land apply the swine manure and other swine by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the swine manure and other swine by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

h. Facility and manure utilization area information shall be included (as appropriate):

i. Name, ~~and address,~~ and tax map number of landowner and location of manure utilization area(s);

ii. List previous calendar years that swine manure and/or dry manure and other swine by-products were applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.5' minutes or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on the applicant's property and within 500 feet of the facility's footprint of construction or within 200 feet of any manure utilization areas;

(d) Adjacent ~~Waters of the State~~ surface water bodies (including ephemeral and intermittent streams) ~~or the nearest water body~~;

(e) Swine manure utilization area boundaries and buffer zones;

(f) ~~R~~right-of-Ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soil maps, a description of soil types, and boring locations (as applicable);

(h) Recorded ~~P~~lats, ~~S~~urveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year and 500-year floodplain as determined by FEMA.

iv. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name, farm address, CAMM number, and county in which the farm is located;

(b) Landowner's name, address, email, phone number;

(c) Location (map with road names, tax map numbers, and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and any manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan; and

(h) A signed statement which informs the landowner that he is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and ~~Regulation R.61-43~~ this regulation.

~~v. For other manure utilization areas that are included in multiple Animal Facility Management Plans identify the names of all facilities that include this manure utilization area in their plan.~~

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 100.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 100.160 (Vector Control Requirements).

6. The Dead Swine Disposal Plan. ~~The plan~~ shall include written details for the handling and disposal of dead swine. Plans should include method of disposal, any construction specifications necessary, and management practices. See Section 100.130 (Dead Swine Disposal Requirements) for ~~specific requirements on dead swine disposal~~ more detailed information.

7. A Soil Monitoring Plan. ~~A soil monitoring plan~~ shall be developed for all manure utilization areas. ~~s~~ See Section 100.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All “Notice of Intent to Build or Expand a Swine Facility” forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings that are required to be notified. See Section 100.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan shall, at a minimum, contain a list of entities or agencies the producer shall contact in the event of ~~a structural failure (such as a dike/dam breach)~~ lagoon, treatment system, or manure storage pond breach, ~~major~~ mass animal mortality, fire, flood, or other similar type problem. For facilities in the coastal areas of the State, the emergency plan shall address actions to be taken by a producer during hurricane season (such as providing additional freeboard during that time) and when advance warning is given on any extreme weather condition.

11. All waivers as specified in Section 100.80 (Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements), if applicable.

12. Application fee and the first year’s operating fee as established by ~~Regulation R.~~ Regulation R.61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the swine facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications ~~only need to~~ must contain the information applicable to the requested modification or any additional information the Department deems necessary.

### **100.60. Public Notice Requirements.**

A. Small Swine Facilities ~~(500,000 pounds or less of normal production live weight).~~

~~1. For persons seeking to construct a new small swine facility, the Department shall have the applicant notify all adjoining property owners and people residing on property within 1/4 mile (1320 feet) of the proposed location of the facility (footprint of construction) of the applicants intent to build a swine facility. The applicant shall use a notice of intent form provided by the Department. The Department shall also post up to four notices on the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department. The notice of intent shall advise adjoining property owners that they can send comments on the proposed animal facility directly to the Department.~~

1. For persons seeking to construct a new small swine facility, the applicant shall:

a. Notify all adjoining property owners and people residing on property within 1/4 mile (1,320 feet) of the proposed location of the facility (footprint of construction and manure storage pond) of the applicant’s intent to build a swine facility.

b. Notify the parties listed in A.1.a. of this section using an NOI form provided by the Department. The NOI shall advise the adjoining property owners that they may send comments on the proposed animal facility directly to the Department.

~~2. For existing small swine facilities seeking to expand their current operations, the Department shall post up to four notices of intent to expand a swine facility on the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department.~~

2. For persons seeking to construct a new small swine facility or expand an established small swine facility, the Department shall post a Public Notice of application received, for fifteen (15) business days, on the Department's website. The Department may also post up to four (4) notices, in the four (4) cardinal directions around the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department.

3. For small swine facilities, the Department shall review all comments received. If the Department receives twenty (20) or more letters from different people living in a 2-mile radius of the proposed facility requesting a meeting or the Department determines significant comment exists, a meeting shall be held to discuss and seek resolution to the concerns prior to a permit decision being made. All persons who have submitted written comments shall be invited in writing to the meeting. First Class US mail service, email, or hand delivery to the address of the interested party shall be used by the Department for the meeting invitation. However, if the Department determines that the number of persons who submitted written comments is significant, the Department shall publish a notice of the public meeting in a local newspaper of general circulation instead of notifying each individual by ~~First eClass~~ mail. In addition, the Department shall notify all group leaders and petition organizers in writing or email. Agreement of the parties is not required for the Department to make a permit decision.

B. Large Swine Facilities(~~greater than 500,000 pounds normal production live weight~~).

1. For persons seeking to construct a new large swine facility or expand an established large swine facility, the applicant shall:

~~a. Notify all property owners within 1/4 mile (1320 feet) of the proposed location of the facility (footprint of construction ) utilizing a form provided by the Department; and~~

a. Notify all adjoining property owners and people residing on property within 1/4 mile (1,320 feet) of the proposed location of the facility (footprint of construction and manure storage pond) of the applicant's intent to build a swine facility.

~~b. Notify persons residing on adjoining property;~~

b. Notify the parties listed in B.1.a. of this section using an NOI form provided by the Department. The NOI shall advise the adjoining property owners that they may send comments on the proposed animal facility directly to the Department.

2. For persons seeking to construct a new large swine facility or expand an established large swine facility, the Department shall~~at the expense of the applicant:~~

~~a. Publish a notice of intent to construct or expand an established swine facility in a local newspaper of general circulation~~ Post a Public Notice of application received, for fifteen (15) business days, on the Department's website. The Department may also post up to four (4) notices, in the four (4) cardinal directions around the perimeter of the property or in close proximity to the property, in visible locations as determined by the Department;

b. Notify the appropriate county commission;

c. Notify the appropriate water supply district (owners or operators of any potable surface water treatment plant located downstream from the proposed swine facility that could reasonably be expected to be adversely impacted if a significant problem arose); and

d. Notify any person who asked to be notified;

3. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the notifications in Section 100.60.B.2.b-d. If the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all groups, organization leaders, and petition organizers in writing or email. The Department shall ask these leaders and organizers to notify their groups or any concerned citizens who signed the petitions.

4. The notice shall contain instructions for public review and comment to the Department on the proposed construction and operation of the swine facility. The notice shall allow for a minimum ~~thirty~~ fifteen (15) business-day comment period.

5. ~~When~~ If the Department receives twenty (20) or more letters or emails from different people living in a 2-mile radius of the proposed facility requesting a ~~hearing~~ public meeting or the Department determines there is significant public interest, the Department shall conduct a public ~~hearing~~ meeting and shall provide notice of the public ~~hearing~~ meeting in accordance with the notice requirements provided for in Section 100.60.B.2.a-d. The initial public notice and ~~hearing~~ meeting notice can be combined into one (1) notice. ~~The Department shall provide at least thirty days (30) notice of the hearing.~~

C. Additional requirements for X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight.~~

1. For persons seeking to construct a new X-large swine facility or expand an established X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~, the applicant shall notify all property owners and person(s) residing on property within one mile (5,280 feet) of the proposed location of the X-large swine facility (footprint of construction and manure storage pond) by certified mail. The notification must include the following information:

a. Name and address of the person proposing to construct an X-large swine facility;

b. The type of swine facility, the design capacity, and a description of the proposed swine manure management system;

c. The name and address of the preparer of the Animal Facility Management Plan;

d. The address of the local Natural Resources Conservation Service (NRCS) office; and

e. A statement, approved by the Department, informing the adjoining property owners and property owners within ~~one~~ 1 mile of the proposed facility, that they may submit written comments or questions to the Department.

2. The applicant shall conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts. The applicant shall provide at least thirty (30) calendar days ~~(30)~~ notice of the meeting date and time by advertisement in a local newspaper of general circulation in the area of the proposed facility. The public meeting notice can be combined into one (1)

notice in combination with the notice run by the Department. However, the applicant must provide information concerning the date, time, and location of the public meeting at the time of application. The minutes of the public meeting, proof of advertisement, and opinions derived from the meeting must be submitted to the Department.

3. The Department shall conduct a public ~~hearing~~meeting and shall provide notice of the public ~~hearing~~meeting in accordance with the notice requirements provided for in Section 100.60.CB.2.a-d. The initial public notice and ~~hearing~~meeting notice can be combined into one (1) notice. The Department shall provide at least thirty (30) calendar days (~~30~~) notice of the ~~hearing~~meeting.

D. For properties that have multiple owners or properties that are in an estate with multiple heirs, the ~~Department, at the expense of the applicant,~~ shall ~~publish~~send an notice of intent NOI to construct an animal facility ~~in a local paper of general circulation in the area of the facility~~by certified mail to each individual. This notice ~~in the newspaper~~ shall serve as notice to these multiple property owners of the ~~producer~~applicant's intent to build a swine facility. ~~The cost to run this notice is not included in the application fee, and therefore shall be billed directly to the permit applicant for payment. This notice fee shall be paid prior to the issuance of the permit.~~

E. When comments are received by ~~electronic~~ email, the Department shall acknowledge receipt of the comment by ~~electronic~~ email. These comments shall be handled in the same manner as written comments received by postal mail.

F. The Department shall consider all relevant comments received in determining a final permit decision.

G. The Department shall send notice of the permit decision to issue or deny the permit to the applicant, all persons who commented in writing to the Department, and all persons who attended the public ~~hearing~~meeting, if held. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the decision notification. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all group leaders and petition organizers in writing or email. The Department shall ask these leaders and organizers to notify members of their groups or any concerned citizens who signed the petitions.

H. For permit issuances, the Department shall publish a notice of issuance of a permit to construct or expand a swine facility ~~in a local newspaper of general circulation in the area of the facility~~on the Department's website.

I. For permit denials, the Department shall give the permit applicant a written explanation which outlines the specific reasons for the permit denial.

J. For permit denials, the Department may publish a notice of decision ~~in a local newspaper of general circulation in the area of the facility. If the number of concerned citizens who submitted written comments is small, the department may send each concerned citizen a letter by first class mail in lieu of the newspaper notice~~on the Department's website.

K. The Department shall include, at a minimum, the following information in the public notices: the name and location of the facility, a description of the operation and the method of manure and other swine by-products handling, instructions on how to appeal the Department's decision, the time frame for filing an appeal, the date of the decision, and the date upon which the permit becomes effective.

#### **100.70. Permit Decision Making Process.**

A. No permit shall be issued before the Department receives a complete application package.

B. The agricultural program of the Department is not involved in local zoning and land use planning. Local government(s) may have more stringent requirements for agricultural animal facilities. The permittee is responsible for contacting the appropriate local government(s) to ensure that the proposed facility meets all the local requirements.

C. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Animal Facility Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

D. A preliminary site inspection shall be made by the Department before a permit decision is made complete application package is received by the Department.

E. The Department shall consider the cumulative impacts including, but not limited to, impacts from evaporation; storm water; and other potential and actual point and nonpoint sources of pollution runoff; levels of nutrients or other elements in the soils and nearby waterways; groundwater or aquifer contamination; pathogens or other elements; and the pollution assimilative capacity of the receiving waterbody. These cumulative impacts will be considered prior to permitting new or expanded swine facilities. Alternative manure and other swine by-products treatment and utilization methods may be required in watersheds which are nutrient-sensitive waters, or impaired by pathogens.

F. The Department shall act on all permits to prevent, ~~so~~as far as reasonably possible considering relevant standards under state and federal laws, an increase in pollution of the waters and air of the State from any new or enlarged sources.

G. The Department also shall act on all permits so as to prevent degradation of water quality due to the cumulative and secondary effects of permit decisions. Cumulative and secondary effects are impacts attributable to the collective effects of a number of swine facilities in a defined area and include the effects of additional projects similar to the requested permit proposed on sites in the vicinity. All permit decisions shall ensure that the swine facility and manure treatment and utilization alternative with the least adverse impact on the environment will be utilized. To accomplish this, new and expanding facilities, except ~~X-large swine facilities with 1,000,000 pounds or more normal production live weight~~, shall use the best available technology economically achievable for the handling, storage, processing, treatment, and utilization of manure. New and expanding ~~X-large swine facilities with 1,000,000 pounds or more normal production live weight~~ shall use the best available technology for the handling, storage, processing, treatment, and utilization of manure. Cumulative and secondary effects shall include, but are not limited to, runoff from land application of swine manure and a swine facility; evaporation and atmospheric deposition of elements; ground-water or aquifer contamination; the buildup of elements in the soil; and other potential and actual point and nonpoint sources of pollution in the vicinity.

H. ~~The S setback limits given in this part Part 100 are minimum siting requirements (with exception to those that are not labeled as minimum requirements, which are absolutes). On a case by case basis the Department may require additional separation distances applicable to swine facilities. The Department shall evaluate the proposed site including, but not limited to, the following factors when determining if additional distances are necessary following factors to determine if any special conditions are necessary:~~

1. ~~Proximity to 100 year floodplain~~ Latitude and Longitude;



2. ~~Geography and soil types on the site~~ Down-wind receptors; and
3. ~~Location in a watershed~~ Nutrient Management Plan;
4. ~~Classification or impairment of adjacent waters;~~
5. ~~Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately owned wildlife refuge, park, or trust property;~~
6. ~~Proximity to other known point source discharges and potential nonpoint sources;~~
7. ~~Slope of the land;~~
8. ~~Swine manure application method and aerosols;~~
9. ~~Runoff prevention;~~
10. ~~Adjacent groundwater usage;~~
11. ~~Down wind receptors; and~~
12. ~~Aquifer vulnerability.~~

~~I. The appeal of a permit decision is governed by the SC Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Judge Division.~~

~~J. I.~~ When a permit is issued it shall contain an issue date, an effective date, and, when applicable, a construction expiration date. The effective date shall be at least ~~twenty (20)~~ fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit shall be effective on the effective date.

~~K. J.~~ The swine facility, lagoon, treatment system, or manure storage pond can be built only when the permit is effective ~~with no appeals pending~~. The facility cannot be placed into operation until the Department grants a written ~~authorization~~ Approval to ~~begin operations~~ Operate (ATO).

~~L. K.~~ To receive ~~authorization to begin operations~~ an ATO, the producer shall have the preparer of the Animal Facility Management Plan submit in writing, to the Department, the following information:

1. Certification that the construction of the structural components (such as the facility footprint, the lagoon, treatment system and/or manure storage pond) has been completed in accordance with the approved Animal Facility Management Plan and the requirements of this regulation;
2. Certification that no portion of the facility has been ~~construction~~ constructed in the 100-year floodplain;
3. Certification for containment of structural failures, if applicable; and
4. Certification for lagoon or manure storage pond lining, if applicable.

~~M.L.~~ The Department shall conduct a final inspection before granting ~~authorization~~approval to a producer to begin operations.

~~N.M.~~ The Department shall grant written ~~authorization~~approval for the producer to begin operations after it has received the information in 100.70.~~L.K~~ and the satisfactory results of a final inspection ~~are satisfactory~~.

~~O.N.~~ Swine Facility Permit Construction Expiration and Extensions.

1. Construction permits issued by the Department for agricultural animal facilities shall be given two ~~(2)~~ years from the effective date of the permit to start construction and three ~~(3)~~ years from the effective date of the permit to complete construction.

2. If the proposed construction as outlined in the permit is not started prior to the construction start expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

3. If construction is not completed and the facility is not placed into operation prior to the construction completion expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

4. If only a portion of the permitted facility (animal growing houses and associated manure treatment and/or storage structures are completely constructed, but not all houses originally permitted were constructed) is completed prior to the construction completion expiration date, the construction for the remainder of the permit may be utilized within the permit life. The permittee shall obtain Departmental approval prior to utilizing the permit in this manner. The Department may require that the permittee submit additional information or update the Animal Facility Management Plan prior to approval.

5. Extensions of the construction permit start and completion dates may be granted by the Department. The permittee shall submit a written request explaining the delay and detailing any changes to the proposed construction. This request shall be received not later than ~~60 days prior to the~~ expiration date that the permittee proposes to extend. The maximum extension period shall not exceed one ~~(1)~~ year. There shall be no more than two (2), one (1)-year extension periods per permit to construct, granted.

~~P.O.~~ Permits issued under this regulation for all swine facilities shall be renewed at least every seven ~~(7)~~ years. ~~However, if a facility is classified as a CAFO under the NPDES Regulations in R.61-9, the expiration date shall be no more than five years after the issue date.~~

~~Q.P.~~ An expired permit (final expiration date for renewal) issued under this part continues in effect until a new permit is effective if the permittee submits a complete application, to the satisfaction of the Department, at least one hundred eighty (180) calendar days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two ~~(2)~~ consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing within thirty (30) calendar days of when they go before going out of business.

~~R.Q.~~ Permit renewal applications shall meet all the requirements of this regulation as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

~~S.R.~~ No permit will be issued to an applicant who contracts with an integrator or integrating company unless the permit is in accordance with the approved cumulative environmental and public health impact assessment plan as required in part 500.20 (~~Integrator~~ Submittal Requirements) of this regulation.

### **100.80. Swine Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements.**

A. Siting Requirements applicable to all small (~~500,000 pounds or less of normal production live weight~~) swine facilities and the lagoons, treatment systems, and/or manure storage ponds associated with them.

1. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well (excluding the applicant's well) is 200 feet. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well owned by the applicant is 50 feet (as required by R.61-71).

2. The minimum separation distance between a lagoon, treatment system, or a manure storage pond and a public or private human drinking water well (excluding the applicant's well) is 500 feet. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.

3. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into Waters of the State (~~excluding~~ including ephemeral and intermittent streams) and a swine facility, swine lagoon, treatment system, or manure storage pond is 100 feet. ~~The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~4. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into an ephemeral or intermittent stream, and a swine facility, swine lagoon, treatment system, or manure storage pond is 50 feet. The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~5.4. The minimum separation distance required between a swine facility, lagoon, treatment system, or manure storage pond and ephemeral or intermittent streams is 100 feet. The setback from ephemeral or intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~6.5. The minimum separation distance required between a small swine facility (not including the lagoon, treatment system, or manure storage pond) and Waters of the State (excluding ephemeral and intermittent streams) is 100 feet.~~

~~7.6. The minimum separation distance required between a small swine lagoon, treatment system, or manure storage pond and Waters of the State (excluding ephemeral and intermittent streams) is 500 feet.~~

~~8.7. If the Waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a small swine lagoon, treatment system, or a manure storage pond and Waters of the State (not including ephemeral and intermittent streams) is 1,320 feet (1/4 mile).~~

~~9. The distance required between a small swine lagoon, treatment system, or manure storage pond and Waters of the State (not including ephemeral and intermittent streams) can be reduced to 200 feet if the permittee implements a design to control the discharge from a failed lagoon, treatment system or manure storage pond so that it never enters Waters of the State (not including ephemeral and intermittent streams) and the designer, either a NRCS employee or a registered engineer, certifies that the system has been constructed as specified. The distance shall not be reduced if the Waters of the State are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters.~~

~~10. For small facilities with a capacity of 250,000 pounds or less of normal production animal live weight at any one time, the separation distance required between a swine growing area (pens or barns not including range areas) and the distance to lot line of real property owned by another person is 200 feet or 1000 feet from the nearest residence, whichever is greater.~~

~~11.8. For small swine facilities with a capacity of more than 250,000 pounds and less than 500,001 pounds of normal production animal live weight at any one time, the separation distance required between a swine growing area (pens or barns not including range areas) and the lot line of real property owned by another person is 400 feet or 1,000 feet from the nearest residence, whichever is greater.~~

~~12. For small facilities with a capacity of 250,000 pounds or less of normal production animal live weight at any one time, the separation distance required between a lagoon, treatment system, and/or manure storage pond and the lot line of real property owned by another person is 300 feet or 1000 feet from the nearest residence, whichever is greater.~~

~~13.9. For small swine facilities with a capacity of more than 250,000 pounds and less than 500,001 pounds of normal production animal live weight at any one time, the separation distance required between a lagoon, treatment system, or manure storage pond and the lot line of real property owned by another person is 600 feet or 1,000 feet from the nearest residence, whichever is greater.~~

~~14.10. The distances in items 10-138 and 9 above can be reduced by written consent of the adjoining property owner, unless a swine facility is located on the adjacent property or within 1,000 feet of the property line. Written consent is not needed when the Department reduces the distances under the requirements of Part 300.~~

~~B. Siting Requirements applicable to all large swine facilities, with less than 1,000,000 pounds normal production live weight, and the lagoons, treatment systems, and manure storage ponds associated with the facility.~~

~~1. The minimum separation distance between a large swine facility with less than 1,000,000 pounds normal production live weight (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well (excluding the applicant's well) is 200 feet. The minimum separation distance between a swine facility (not including a lagoon, treatment system, manure storage pond, or manure utilization areas) and a potable water well owned by the applicant is 50 feet (as required by R.61-71).~~

~~2. The minimum separation distance between a lagoon, treatment system, or a manure storage pond, with less than 1,000,000 pounds normal production live weight and a public or private human drinking water well (excluding the applicant's well) is 500 feet. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.~~

3. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into Waters of the State (~~excluding~~including ephemeral and intermittent streams) and a swine facility, swine lagoon, treatment system, or manure storage pond, ~~with less than 1,000,000 pounds normal production live weight, associated with a large swine facility is 100 feet. The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer at least 50 feet wide, that meets NRCS standards at a minimum, is installed and maintained.~~

~~4. Except for site drainage, the minimum separation distance required between a ditch or swale, which drains directly into an ephemeral or intermittent stream, and a swine facility, swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, is 50 feet.~~

~~54. The minimum separation distance required between a large swine facility, lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and ephemeral or intermittent is 100 feet. The setback from ephemeral or intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer at least 50 feet wide, that meets NRCS standards at a minimum, is installed and maintained. associated with the facility and ephemeral or intermittent streams is 200 feet.~~

~~65. The minimum separation distance required between a large swine facility with less than 1,000,000 pounds normal production live weight (not including the lagoon, treatment system, or manure storage pond) and Waters of the State (~~excluding~~including ephemeral and intermittent streams) is 200 feet.~~

~~76. The minimum separation distance required between a large swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and Waters of the State (not including ephemeral and intermittent streams) is 1,320 feet (1/4 mile). If the Waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and Waters of the State (not including ephemeral and intermittent streams) is 2,640 feet (1/2 mile). A minimum 100-foot wide vegetative water quality buffer of plants and trees is required to be installed and maintained on the site between the facility and any down slope Waters of the State. Sites with existing vegetation may qualify to utilize the existing vegetation for a buffer, if the vegetation is deemed sufficient. For new facilities constructed in areas where natural vegetation is not present, the Department shall evaluate these sites on a case-by-case basis to determine the amount of vegetative buffer that shall be planted. However, each site shall be required at a minimum to provide a vegetative buffer that meets the current NRCS standards.~~

~~8. The distance required between a large swine lagoon, treatment system, or manure storage pond, with less than 1,000,000 pounds normal production live weight, and Waters of the State (not including ephemeral and intermittent streams) can be reduced to 500 feet if the permittee implements a design to control the discharge from a failed lagoon, treatment system, or manure storage pond so that it never enters Waters of the State (not including ephemeral and intermittent streams) and the designer, either a NRCS employee or a professional engineer, certifies that the plan has been implemented as specified. The distance shall not be reduced if the Waters of the State are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters.~~

~~9.7. The minimum separation distance required between a large swine facility with less than 1,000,000 pounds normal production live weight (growing area, pens or barns not including range areas) and real property owned by another person is 1,000 feet.~~

~~10. For swine facilities with a capacity of 500,001 to 750,000 pounds of normal production animal live weight at any one time, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and real property owned by another person is 1,000 feet.~~

~~11.8. For large swine facilities with a capacity of 750,001 to 1,000,000 pounds of normal production animal live weight at any one time, the minimum separation distance required between a lagoon, treatment system, and/or a waste/manure storage pond and real property owned by another person is 1,250 feet.~~

~~12.9. The minimum separation distance required between large swine facilities with less than 1,000,000 pounds normal production live weight is two 2 miles.~~

~~13.10. A separation distance to adjacent land as provided in 9-11 items 7 and 8 above does not apply to a swine facility, lagoon, treatment system, or manure storage pond which is constructed or expanded, if the titleholder of adjoining land to the concentrated swine operation executes a written waiver with the title holder of the land where the swine facility is established or proposed to be located, under terms and conditions that the parties negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the Register of Deeds of the county in which the benefited land is located. The filed waiver precludes enforcement of 100.80.B.9-117 and 8 as it relates to the swine facility and to real property owned by another person. The permittee shall submit a copy of the document with the recording stamp to the Department. The separation distances shall not be reduced or waived if a swine facility is located on the adjacent property or within 1,000 feet of the property line.~~

C. Siting requirements applicable to X-large swine facilities, ~~with 1,000,000 pounds or more normal production live weight~~, and the lagoons, treatment systems, and manure storage ponds associated with the facility are as follows:

1. The minimum separation distance required between an X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ and Waters of the State (~~excluding~~including ephemeral and intermittent streams) is 2,640 feet (½ mile).

2. The minimum separation distance required between an X-large swine lagoon, treatment system, or manure storage pond, ~~with 1,000,000 pounds or more normal production live weight~~, and Waters of the State (~~not~~ including ephemeral and intermittent streams) is 2,640 feet (½ mile). If the Waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and Waters of the State (not including ephemeral and intermittent streams) is 3,960 feet (¾ mile). A minimum 100-foot wide vegetative water quality buffer of plants and trees is required to be installed and maintained on the site between the facility and any down slope Waters of the State. Sites with existing vegetation may qualify to utilize the existing vegetation for a buffer, if the vegetation is deemed sufficient. For new facilities constructed in areas where natural vegetation is not present, the Department shall evaluate these sites on a case-by-case basis to determine the amount of vegetative buffer that shall be planted. However, each site shall be required, at a minimum, to provide a vegetative buffer that meets the current NRCS standards.

3. The minimum separation distance required between an X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ (including the lagoon, treatment system, and manure storage pond) and real property owned by another person or a residence (excluding the applicant's residence) is 1,750 feet.

4. The minimum separation distance between an X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ (including a lagoon, treatment system, or manure storage pond) and a potable

water well (excluding the applicant's well) is 1,750 feet. The minimum separation distance between a swine facility (including a lagoon, treatment system, or manure storage pond) and a potable water well owned by the applicant is 100 feet (as required by R.61-71).

5. The minimum separation distance required between X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ is ~~twenty-five~~ 25 miles.

D. A new swine facility or an expansion of an established swine facility may not be located in the 100-year floodplain.

E. Water (a pond) that is completely surrounded by land owned by the permit applicant and has no connection to other water is excluded from the setback requirements outlined in this part.

F. All lagoon and manure storage pond setbacks contained in this part shall be measured from the outside toe of the dike.

G. Setback limits given in this part are minimum siting requirements, except those not labeled as minimum requirements, which are absolutes. On a case-by-case basis the Department may require additional separation distances to the minimum setbacks applicable to swine facilities. See Section 100.70.H. for specific criteria evaluated for determining if greater setbacks should be required.

#### **100.90. General Requirements for Swine Manure Lagoons, Treatment Systems, and Swine Manure Storage Ponds.**

A. The lagoon, treatment system, or manure storage pond shall be designed by a professional engineer or an NRCS engineer and the construction shall be certified by the design engineer or professional engineer licensed in S.C. It is a violation of ~~these~~ this regulations and the South Carolina Pollution Control Act for the owner or operator of the facility to make modifications or physical changes to the lagoon, treatment system, or manure storage pond without the prior approval of the Department and supervision of NRCS or a professional engineer. Plans and specifications for lagoon, treatment system, or manure storage pond modifications shall be designed and certified by NRCS or a professional engineer and submitted to the Department for approval prior to the modification.

B. Swine manure lagoons and manure storage ponds shall be designed at a minimum to NRCS-CPS. The ~~manure storage pond or lagoon or manure storage pond~~ shall be designed to provide a minimum storage capacity for manure, wastewater, normal precipitation less evaporation, normal runoff, and residual solids accumulation, ~~capacity~~ for the twenty-five (25) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least one and one half (1 ½) feet of freeboard. New X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall be designed to provide storage capacity for all the above-mentioned items, including the fifty (50) year - twenty-four (24) hour storm event (precipitation and associated runoff) and at least ~~two (2)~~ feet of freeboard.

C. All lagoons and storage ponds constructed or expanded after the date of this regulation shall be provided with a geomembrane liner, designed with an initial specific discharge rate of less than 0.0156 feet/day in order to protect groundwater quality. ~~Lagoons and manure storage ponds at swine facilities shall be lined with either a natural liner or a geomembrane liner or a combination thereof.~~ Lagoons and manure storage ponds at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight or at facilities within delineated source water protection areas or vulnerable recharge areas, as determined by the Department,~~ shall be lined with a geomembrane liner such that the vertical hydraulic conductivity does not exceed  $5 \times 10^{-7}$  cm/sec. Geomembrane liners, at a minimum, shall meet NRCS-CPS. ~~When~~ For existing lagoons or manure storage ponds ~~are~~ lined using only soils with low permeability rates (e.g., clay), the

Department shall require appropriate documentation to demonstrate that the computed soil permeability of the liner is sufficient to prevent seepage greater than the initial specific discharge rate. Appropriate certification shall be provided by the preparer of the Animal Facility Management Plan that the NRCS-CPS for lining lagoons and/or manure storage ponds with soils have been met.

D. Lagoons and manure storage ponds at swine facilities shall not exceed one million cubic feet of total volume, unless the lagoon or manure storage pond implements a design to control the discharge from a failed lagoon, treatment system, or manure storage pond so that it never enters Waters of the State.

E. Large swine facilities ~~with less than 1,000,000 pounds normal production live weight~~ are prohibited from utilizing open anaerobic lagoons or manure storage ponds. These facilities shall utilize best available technology that is economically achievable for the manure handling, treatment, storage, and utilization.

F. ~~X~~-Large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ are prohibited from utilizing open lagoons or manure storage ponds. These facilities shall utilize best available technology for the manure handling, treatment, storage, and utilization. Lagoons and manure storage ponds utilized at ~~X~~-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall be designed with airtight covers. Air pollution control devices utilizing the Best Available Technology shall be installed on all lagoon cover vents and openings to remove ammonia, hydrogen sulfide, methane, formaldehyde, and any other organic and inorganic air pollutants, which may be required by the Department. Such air pollution control devices shall meet all the requirements of the Department and appropriate air quality permits shall be obtained. "Best Available Technology" means, for the air emissions purpose of this regulation, the rate of emissions which reflects the most stringent emissions limitations required by any State regulation or permit, existing at the time the application is made, for all pollutants emitted from this source category; or, the most stringent emissions limit achieved in actual practice, whichever is more stringent.

G. If seepage results in either an adverse impact to groundwater or a significant adverse trend in groundwater quality occurs, as determined by the Department, the lagoon or manure storage pond shall be repaired at the owner's or operator's expense. Assessment and/or additional monitoring (more wells, additional constituents, and/or increased sampling frequency) may be required by the Department to determine the extent of the seepage. The repairs and/or assessment shall be completed in accordance with an implementation schedule approved by the Department. The Department may require groundwater corrective action.

H. Manure and other swine by-products shall not be placed directly in or allowed to come into contact with groundwater and/or surface water. The minimum separation distance between the lowest point of the lagoon and/or manure storage pond and the seasonal high water table beneath the lagoon and/or manure storage pond is 2 feet. If a geomembrane liner is installed, then the minimum separation distance is 1 foot from the seasonal high water table. Designs that include controlled drainage for water table adjustment shall be evaluated by the Department on a case-by-case basis, and may include additional monitoring and groundwater control requirements. If a design is proposed for water table adjustment, the design shall not impact wetlands. Groundwater monitoring wells may be required to be installed and monitored at a frequency as given in the permit for the facility in situations where a liner is used to allow the lowest point of a lagoon to be less than 2 feet to the seasonal high water table.

I. Owners of lagoons and manure storage ponds at large ~~and X-large~~ swine facilities ~~(greater than 500,000 pounds normal production live weight)~~ ~~are~~ shall be required to install at least one (1) up-gradient and two (2) down-gradient monitoring wells at a depth which the Department considers appropriate around the lagoon or series of lagoons in order to monitor groundwater quality. For small swine facilities ~~(500,000 pounds or less of normal production live weight)~~, the Department may require monitoring wells upon Department review of the submittal package.



J. A groundwater monitoring plan shall be submitted with the permit application to the Department. All applicable State certification requirements regarding well installation, laboratory analyses, and report preparation shall be met. Groundwater monitoring wells shall be sampled at least once annually by qualified personnel, at the expense of the permittee. Monitoring wells at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ must be sampled at least quarterly, unless more frequent sampling is specified in the permit. The results shall be submitted to the Department in accordance with the specified permit requirements. Groundwater monitoring results shall be maintained by the producer for eight (8) years. The Department may conduct routine and random visits to the swine facility to sample the monitoring wells.

K. The monitoring wells shall be properly installed and sampled prior to use of the lagoon or manure storage pond. All monitoring wells shall be sampled in accordance with the parameters identified in the permit such that a background concentration level can be established.

L. Before the construction of a lagoon and/or a manure storage pond, the owner or operator shall remove all under-drains that exist from previous agricultural operations that are under the lagoon or manure storage pond and/or within ~~twenty five (25)~~ feet of the outside toe of the proposed lagoon or manure storage pond dike. This requirement does not include under-drains that are approved as a part of a design that includes controlled drainage for water table adjustment.

M. Lagoons and manure storage ponds at X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall install automated lagoon level monitoring devices.

N. Proper water levels in lagoons and manure storage ponds, as per plans and specifications, shall be maintained at all times by the permittee. The Department may require specific lagoon or manure storage pond volume requirements in permits. An approved marker shall be installed to measure waste levels.

O. If a lagoon, treatment system, or manure storage pond, or ~~both~~ all of these, breaches or fails ~~in any way~~, the owner or operator of the swine facility shall immediately notify the Department, the appropriate local government officials, and the owners or operators of any potable surface water treatment plant located downstream from the swine facility that could reasonably be expected to be adversely impacted.

P. Lagoons, treatment systems, and manure storage ponds shall be completely enclosed with an acceptable fence, unless a fence waiver is obtained from the Department.

Q. Lagoons and manure storage ponds shall have at least four (4) warning signs posted in the four (4) cardinal directions around the perimeter of the structure. These signs ~~should~~ must read, "Warning - Deep and Polluted Water", ~~and one should be posted on each side of the lagoon or manure storage pond.~~

R. Vegetation on the dikes and around the lagoon or manure storage pond should be kept below a maximum height of ~~eighteen~~ 18 inches. Trees or deeply rooted plants shall be prevented from growing on the dikes or within 25 feet of the outside toe of the dikes of the lagoon, treatment systems, or manure storage pond. Existing trees on the dikes shall be evaluated by NRCS staff or a dam engineer licensed in South Carolina to determine if they should be removed or remain.

S. Livestock or other animals that could cause erosion or damage to the dikes of the lagoon or manure storage pond shall not be allowed to enter the lagoon or manure storage pond, or graze on the dike or within 25 feet of the outside toe of the dike.

T. The Department shall require existing facilities, regardless of size, with a history of manure handling, treatment, and disposal problems related to a lagoon, to phase out the existing lagoon and incorporate new technology.

#### **100.100. Manure Utilization Area Requirements.**

A. Application Rates. The Department shall approve an Animal Facility Management Plan that establishes an application rate for each manure utilization area based on the agronomic application rate of the specific crop(s) being grown. Other factors considered are the manure and other swine by-products' impact on the environment, animals, and people living in the vicinity. The application rate shall also be based on the limiting constituent (either a nutrient or other constituent as given in item 100.100.B). In developing annual constituent loading rates and cumulative constituent loading rates, the Department shall consider:

1. Soil type;
2. Type of vegetation growing in land-applied area;
3. Proximity to 100-year floodplain;
4. Location in watershed;
5. Nutrient sensitivity of receiving land and waters;
6. Soil nutrient testing in conjunction with soil productivity information;
7. Nutrient, copper, zinc, and constituent content of the manure and other swine by-products being applied;
8. ~~Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately owned wildlife refuge, park, or trust property;~~
9. Proximity to other point and nonpoint sources;
10. Slope of land (anything over ten percent (10%) must use runoff best management practices, runoff controls, or conservation features as per NRCS);
11. Distance to water table or groundwater aquifer;
12. Timing of manure application to coincide with vegetative cover growth cycle;
13. Timing of harvest of vegetative cover;
14. Hydraulic loading limitations;
15. Soil assimilative capacity;
16. Type of vegetative cover and its nutrient uptake ability;
17. Method of land application; and

18. Aquifer vulnerability.

B. Constituent Limits for Land Application of Swine manure and other swine by-products.

~~1. Swine Manure and other swine by products.~~ The Department may establish constituent limits in permits on a case-by-case basis on swine manure and other swine by-products to be land applied. Swine manure and other swine by-products containing only the standard constituents at normal concentrations as given by commonly accepted reference sources, such as Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, or NRCS, can be land applied at or below agronomic rates without any specific constituent limits in a permit. When the swine manure or other swine by-products analysis indicates there are levels of copper, or other constituents of concern, the Department shall establish constituent limits in permits for each constituent of concern to ensure the water quality standards of ~~Regulation R~~ 61-68 are maintained. For these cases, the producer shall comply with the following criteria:

a. Constituent Limits. If swine manure and other swine by-products subject to a constituent limit is applied to land, either:

i. the cumulative loading rate for each constituent shall not exceed the rates in Table 1 of Section 100.100; or

ii. the concentration of each constituent in the swine manure and other swine by-products shall not exceed the concentrations in Table 2 of Section 100.100.

b. Constituent concentrations and loading rates - swine manure.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 100.100 - CUMULATIVE CONSTITUENT LOADING RATES			
Cumulative Constituent Loading Rate			
Constituent	(kilograms per hectare)	(pounds per acre)	
Copper	1500	1339	
Zinc	2800	2499	

ii. Constituent concentrations.

TABLE 2 OF SECTION 100.100 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 100.100 - ANNUAL CONSTITUENT LOADING RATES		
Annual Constituent Loading Rate		
	(kilograms per hectare per 365-day period)	(pounds per acre per 365-day period)

Constituent			
Copper	75	67	
Zinc	140	125	

c. Additional constituents limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 to land if any of the rates in Table 1 of Section 100.100.B.1 have been reached unless the constituent is removed from the manure and other swine by-products.

e. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied to land during a 365-day period after the annual application rate in Table 3 of Section 100.100.B.1 has been reached.

f. If swine manure and other swine by-products subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 have not been applied to the site, then the cumulative rates apply.

g. If swine manure and other swine by-products subject to the cumulative constituent loading rates in Table 1 of Section 100.100.B.1 have been applied to the site and the cumulative amount of each constituent is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 100.100.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manure in combination with the fertilizer shall not ~~be used so as to~~ exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any producer who confines swine shall ensure that the applicable requirements in this part are met when the swine manure and other swine by-products are applied to the land.

3. Swine manure and other swine by-products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow-covered. Swine manure and other swine by-products shall not be applied during inclement weather or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless approved by the Department in an emergency situation.

4. Swine manure and other swine by-products shall not be placed directly in groundwater.

5. ~~The~~All land application equipment, (e.g. Spreader, injection) when used once or more per year, shall be calibrated at least annually by the ~~producer~~person land applying. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the producer and made available for Department review upon request. If the land application equipment has not been used in over a year, ~~then~~ the equipment shall be calibrated prior to use.

6. ~~No producer shall apply s~~Swine manure and other swine by-products shall not be applied to the land except in accordance with the requirements in this part.

7. A producer who supplies swine manure and other swine by-products to another person for land application shall provide the person who will land apply the manure and other swine by-products with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. The producer shall also supply the person who will land apply the manure with a copy of the crop management plan included in their Animal Facility Management Plan ~~or a copy of the Land Application brochure approved by the Department which outlines the land application requirements and responsibility for proper management of animal manure.~~

8. Swine manure and other swine by-products shall not be applied to or discharged onto a land surface when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

9. Soil sampling (usually 6-8 inch depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled at least once per year. If manure application frequency shall be less than once per year, then at least one (1) soil sample shall be taken prior to returning to that field for land application. All new manure utilization areas shall be evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department.

10. Soil sampling to a depth of ~~eighteen-18 inches shall~~ may be performed required by the Department within ~~forty-five (45) calendar days~~ after each application of swine manure, but no more than two (2) times per year if the application frequency is more than twice per year. This sampling shall be performed for at least three (3) years after the initial application on at least one (1) representative manure utilization area for each crop grown to verify the estimated calculated swine manure application rates for the utilization areas. The date of manure application and the date of sampling shall be carefully recorded. The sampling shall be conducted at depths of ~~zero to six-0 to 6 inches, six to twelve-6 to 12 inches, and twelve to eighteen-12 to 18 inches~~ with nitrates and phosphorus being analyzed.

11. The results of the pre-application and post-application sampling shall be used by the ~~producer~~ crop farmer to adjust as necessary, the amount of swine manure to be applied to a manure utilization area to meet the agronomic application rate for the crop(s) to be grown. These results shall be submitted to the Department at the time of application for permit renewal.

12. Additional soil sampling to greater depths may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination. ~~The permit shall give the appropriate depth and frequency for all soil sampling.~~

13. The permittee shall obtain the following information needed to comply with the requirements in this part-:

a. A manure transfer contract shall be developed for the producer to use with any person who is accepting manure in quantities greater than 12 tons per recipient per year. The contract should contain, at a minimum, the following information:

i. Name, address, county and telephone number of the person who is purchasing or accepting animal manure and other animal by-products;

ii. Manure nutrient composition (pounds per ton of plant available nitrogen, phosphorus, and potassium) to be filled in or provided by the producer. This information shall be obtained from the manure analysis results and the producer shall provide this information on the manure transfer contract.

iii. Land application field information;

iv. Physical description (acreage, crop, soil type);

v. Soil test results (phosphorus, zinc, and copper in pounds/acre); and

vi. Recommended application rates (nitrogen, phosphorus, and potassium in pounds/acre as reported on a soil test).

b. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, or a site plan sketch that includes the following information:

i. Manure application area with setbacks outlined;

ii. Known water supply wells within 100 feet of the property line;

iii. Adjacent surface waters, including ditches, streams, creeks, and ponds; and

iv. Identification of roads and highways to indicate location.

c. Description of application equipment and name of person to land apply manure;

d. Signed agreement that informs the landowner that he or she is responsible and liable for land applying the animal manure and other animal by-products in accordance with this regulation; and

e. A copy of the land application requirements shall be provided to the recipient of the manure.

14. All persons who routinely accept manure from a producer, in quantities greater than twelve tons per recipient per year, shall be listed in the approved Animal Facility Management Plan. The Animal Facility Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the recipient of the responsibility to properly manage the land application of manure to prevent discharge of pollutants to Waters of the State (including ephemeral and intermittent streams). The person accepting the manure may be required by the Department to have an Animal Facility Management Plan and a permit for their manure utilization areas. All persons who routinely accept manure from a producer, in quantities greater than 12 tons per recipient per year, shall be listed in the approved Animal Facility Management Plan. The Animal Facility Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the applier of their responsibility and have a signed manure transfer contract to properly manage the land application of manure to prevent discharge of pollutants to Waters of the State (including ephemeral and intermittent streams). The person accepting the manure may be required by the Department to have an Animal Facility Management Plan and a permit for his or her manure utilization areas.

15. All persons who accept manure from a producer, regardless of whether the land is included in the waste management plan, are responsible for land applying the manure in accordance with these requirements. The Department may require the person(s) land applying the manure to correct any problems that result from the application of manure. All persons who accept manure from a producer, in quantities

less than 12 tons per recipient per year are responsible for land applying the manure in accordance with these requirements and must have a signed agreement with the producer explaining their responsibility to comply with this regulation. The Department may require the persons(s) land applying the manure to correct any problems that result from the application of manure.

16. Swine manure shall not be applied to cropland more than thirty (30) calendar days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

17. When the Department receives nuisance complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

18. The Department may require manure, ~~spread on cropland,~~ to be disked in immediately.

19. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless otherwise approved by the Department in an emergency situation.

20. Manure shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

21. If the manure is stockpiled ~~more than three (3) days outside,~~ the manure shall be stored on a concrete pad or other approved pad (such as plastic or clay lined) and covered on a daily basis (unless otherwise specified in the permit) with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored.

22. ~~Producers who contract to transfer the swine manure and other swine by-products produced at their facility to a manure broker shall modify their existing Animal Facility Management Plan if they discontinue using the designated broker or if the manure broker goes out of the manure brokering business.~~ If a producer, who contracts to transfer the swine manure and other swine by-products produced at his or her facility, changes brokers, he or she must submit notification and a new broker contract for approval to the Department.

23. The body of vehicles transporting manure shall be wholly enclosed and, while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method that shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.

#### C. Setbacks for manure utilization areas (MUA) for small, large, and X-large swine facilities.

1. Siting Requirements applicable to all manure utilization areas associated with ~~small~~ all swine facilities ~~(500,000 pounds or less normal production live weight).~~

a. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure can be applied up to the property line. The 300-foot setback may be waived with the consent of the owner of the residence. If the application method is injection or immediate (same day) incorporation, manure may

be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case-by-case basis.

b. The minimum separation distance ~~in feet~~ required between a manure utilization area and Waters of the State (not including ephemeral and intermittent streams), ditches, and swales that drain directly into Waters of the State (not including ephemeral and intermittent streams) is 100 feet.

c. The minimum separation distance ~~in feet~~ required between a manure utilization area and ephemeral and intermittent streams is 100 feet when spray application is the application method, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

d. The minimum separation distance ~~in feet~~ required between a manure utilization area and ditches and swales; that drain directly into ephemeral and intermittent streams is 50 feet.

e. The minimum separation distance ~~in feet~~ required between a manure utilization area and a ~~public and private~~potable drinking water well is 200 feet.

~~2. Siting Requirements applicable to all manure utilization areas associated with large swine facilities with less than 1,000,000 pounds normal production live weight.~~

~~a. The minimum separation distance in feet required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure can be applied up to the property line. The 300 foot setback may be waived with the consent of the owner of the residence. If the application method is injection or immediate incorporation, manure may be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case by case basis.~~

~~b. The minimum separation distance in feet required between a manure utilization area and Waters of the State (not including ephemeral and intermittent streams), ditches, and swales that drain directly into Waters of the State (not including ephemeral and intermittent streams) is 100 feet.~~

~~c. The minimum separation distance in feet required between a manure utilization area and ephemeral and intermittent streams is 100 feet when spray application is the application method, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within 24 hours of the initial application, the distance can be reduced to 50 feet.~~

~~d. The minimum separation distance in feet required between a manure utilization area and ditches and swales that drain directly into ephemeral and intermittent streams is 50 feet.~~

~~e. The minimum separation distance in feet required between a manure utilization area and a public and private drinking water well is 200 feet.~~

~~3. Siting Requirements applicable to all manure utilization areas associated with large swine facilities with 1,000,000 pounds or more normal production live weight.~~

~~a. The minimum separation distance in feet required between a manure utilization area and real property owned by another person is 200 feet from the property lines.~~



~~b. The minimum separation distance in feet required between a manure utilization area and an occupied residence is 750 feet (excluding the applicant's residence).~~

~~e. The minimum separation distance in feet required between a manure utilization area and Waters of the State (not including ephemeral and intermittent streams), ditches, and swales is 150 feet.~~

~~d. The minimum separation distance in feet required between a manure utilization area and a public and private drinking water well is 200 feet.~~

~~e. The minimum separation distance in feet required between a manure utilization area and ephemeral and intermittent streams is 100 feet.~~

42. Water (pond) that is completely surrounded by land owned by the applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

53. The Department may establish in permits additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be swine manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, aquifer vulnerability, and potential for vectors and odors.

D. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface Waters of the State (including ephemeral and intermittent streams). Criteria may include, but is not limited to, soil permeability, clay content, depth to bedrock, rock outcroppings, aquifer vulnerability, proximity to State Approved Source Water Protection Area, and depth to the seasonal high groundwater table.

E. The Department may establish permit conditions to require that swine manure and other swine by-products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on Southeastern land grant universities' ~~(in the southeast)~~ published lime and fertilizer recommendations (such as the Lime and Fertilizer Recommendations, Clemson Extension Services, ~~Circular 476~~).

#### F. Groundwater Monitoring for Manure Utilization Areas.

1. For ~~X~~-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~, at least one (1) up-gradient and two (2) down-gradient groundwater monitoring wells shall be installed for each drainage basin intersected by the manure utilization areas. The location, design, and construction specifications for the monitoring wells shall be submitted in the application package. The information shall be reviewed and approved by the Department prior to permit issuance. The permit will contain specific requirements for sampling the groundwater monitoring wells, including the frequency and parameters for sampling.

2. For small and large swine facilities ~~(500,000 pounds or less normal production live weight) and large swine facilities with less than 1,000,000 pounds normal production live weight~~, the Department may require groundwater monitoring at manure utilization areas as appropriate.

3. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include ~~depth to the seasonal high groundwater~~ groundwater depth, operation

flexibility, application frequency, type of swine manure and other swine by-products, size of manure utilization area, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and loading rate.

a. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

b. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the swine manure and other swine by-products applications based on the results of this monitoring data.

c. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

G. The Department may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to any manure utilization areas.

#### **100.110. Spray Application System Requirements.**

A. Spray application of swine manure ~~utilizing~~using irrigation equipment. This includes all methods of surface spray application, including, but not limited to, fixed gun application, traveling or mobile gun application, or center pivot application.

B. New X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ are prohibited from utilizing spray application systems for manure application. Manure must be incorporated into the manure utilization fields ~~utilizing~~using subsurface injection at a depth of not less than ~~six~~6 inches.

C. Manure utilization area slopes shall not exceed ~~ten~~ percent (10%) unless approved by the Department. The Department may require that slopes be less than ten percent (10%) based on site conditions.

D. Swine manure distribution systems shall be designed so that the distribution pattern optimizes uniform application.

#### **E. Hydraulic Application Rates.**

1. Application rates shall normally be based on the agronomic rate for the crop to be grown at the manure utilization area. As determined by soil conditions, the hydraulic application rate may be reduced below the agronomic rate to ensure no surface ponding, runoff, or excessive nutrient migration to the groundwater occurs.

2. The hydraulic application rate may be limited based on constituent loading including any constituent required for monitoring under this regulation.

F. Swine manure and other swine by-products shall not be ~~land-applied or discharged onto a land surface~~ when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with ~~the~~Departmental concurrence.

G. Conservation measures, such as terracing, strip cropping, etc., may be required in specific areas determined by the Department as necessary to prevent potential surface runoff from entering or leaving the manure utilization areas. The Department may consider alternate methods of runoff controls that may be proposed by the applicant, such as berms.

H. For swine facilities, a system for monitoring the quality of groundwater may also be required for the proposed manure utilization areas. The location of all the monitoring wells shall be approved by the Department. The number of wells, constituents to be monitored, and the frequency of monitoring shall be determined on a case-by-case basis based upon the site conditions such as type of soils, depth of water table, aquifer vulnerability, proximity to State Approved Source Water Protection Area, etc.

I. If an adverse trend in groundwater quality is identified, further assessment and/or corrective action may be required. This may include an alteration to the permitted application rate or a cessation of manure application in the impacted area.

J. Spray application systems shall be designed and operated in such a manner to prevent drift of liquid manure onto adjacent property.

#### **100.120. Frequency of Monitoring for Swine Manure.**

A. The producer and/or integrator shall be responsible for having representative samples based on Clemson University Extension Service recommendations of the swine manure collected and analyzed at least once per year and when the feed composition significantly changes. The constituents to be monitored shall be given in the permit. The analyses shall be used to determine the amount of swine manure to be land applied. In order to ensure that the permitted application rate (normally the agronomic rate) is met, the application amount shall be determined using a rolling average of the previous analyses. The Department shall establish minimum requirements for the proper method of sampling and analyzing of swine manure. Facilities with permits that do not specify which constituents to monitor shall monitor for ~~Ammonium-Nitrogen~~, Total Kjeldahl Nitrogen (TKN), ~~Organic Nnitrogen~~ (~~Organic Nnitrogen~~ = TKN - ~~Ammonium Nnitrogen~~), P<sub>2</sub>O<sub>5</sub>, and K<sub>2</sub>O.

B. The Department may require nitrogen, potassium, phosphorus, the constituents listed in Table 1 and Table 2 of Section 100.100 (Manure Utilization Area Requirements), and any other constituent contained in a permit to be monitored prior to each application.

C. Permittees do not have to analyze for any constituent they can demonstrate, to the satisfaction of the Department, is not present in their swine manure.

D. All monitoring shall be done in accordance with collection procedures in Standard Methods for Analysis of Water and Wastewater or other Department guidelines. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

#### **100.130. Dead Swine Disposal Requirements.**

A. Dead swine disposal shall be done as specified in the approved Animal Facility Management Plan. The Dead Swine Disposal Plan shall include the following:

1. Primary Method of disposal for the handling and disposal of ~~dead swine that result from~~ normal mortality on the farm.

2. Alternate Method for the handling and disposal of ~~dead swine that result from~~ excessive mortality ~~on the farm at the facility~~. The normal method of disposal may not be sufficient to handle an excessive mortality situation. Each producer ~~should~~shall have ~~an~~ a Department-approved emergency or alternate method to dispose of excessive mortality. Excessive mortality burial sites shall be preapproved by the Department prior to utilization.

#### B. Burial.

1. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

2. Burial pits shall not be located in the 100-year floodplain.

3. Soil type shall be evaluated for leaching potential.

4. Burial pits shall not be located or utilized on sites that are in areas that may adversely ~~affected~~impact surface or groundwater quality or further impact impaired water bodies.

5. The bottom of the burial pit may not be within 2 feet of the seasonal high groundwater ~~level~~table.

6. No burial site shall be allowed to flood with surface water.

7. Swine placed in a burial site shall be covered daily with sufficient cover (6 inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site shall be properly capped (minimum 2 feet) and grassed to prohibit erosion.

9. Proposed burial pit sites shall be approved by the Department. The Department may conduct a geologic review of the proposed site prior to approval.

10. The Department may require any new or existing producers to utilize another method of dead swine disposal if burial is not managed according to the Dead Swine Disposal Plan or repeated violations of these burial requirements occur or adverse impact to surface or groundwater is determined to exist.

11. The Department may require groundwater monitoring for dead animal burial pits on a case-by-case basis. The Department shall consider all of the facts including, but not limited to, the following: depth to the seasonal high water table; aquifer vulnerability; proximity to a State Approved Source Water Protection Area; groundwater use in the area; distance to adjacent surface waters; number of dead animals buried; and frequency of burial in the area.

#### C. Incinerators.

1. For facilities proposing an incinerator for dead swine disposal, either a permit for the air emissions shall be obtained from the Department's Bureau of Air Quality before the incinerator can be built or the following criteria shall be met in order to qualify for an exemption from an air permit:

a. The emission of particulate matter shall be less than ~~one~~1 pound per hour at the maximum rated capacity.

b. The incinerator shall be a package incinerator ~~and have a rated capacity of 500 pounds per hour or smaller which burns virgin fuel only~~ that meets the requirements from the Department's Bureau of Air Quality; and

c. The incinerator shall not exceed an opacity limit of ten percent (10%).

2. Incinerators used for dead swine disposal shall be properly operated and maintained. Operation shall be as specified in the owner's manual provided with the incinerator. The owner's manual shall be kept on site and made available to Department personnel upon request.

3. The use of the incinerator to dispose of waste oil, hazardous waste, or any other waste chemical is prohibited. The use of the incinerator shall be limited to dead swine disposal only unless otherwise approved by the Department's Bureau of Air Quality.

~~D. Composters.~~ Composters used for dead swine disposal shall be designed by a professional engineer or an NRCS representative and operated in accordance with the approved Animal Facility Management Plan. Packaged composters shall be approved on a case-by-case basis.

E. Disposal of dead swine in a municipal solid waste landfill shall be in accordance with ~~Regulation R.61- 107.25819.~~

F. Disposal of swine carcasses or body parts into manure lagoons, treatment systems, storage ponds, Waters of the State, ephemeral and intermittent streams, ditches, and swales is prohibited.

~~G. Other methods of dead swine disposal that are not addressed in this regulation may be proposed in the Dead Swine Disposal Plan.~~ Disposal of animal carcasses or body parts by rendering shall be approved by the Department and include a signed contract with the rendering company.

H. Other methods of dead animal disposal that are not addressed in this regulation may be proposed in the Dead Animal Disposal Plan.

#### **100.140. Other Requirements.**

A. There shall be no discharge of pollutants from the operation into surface Waters of the State (including ephemeral and intermittent streams). There shall be no discharge of pollutants into groundwater, which could cause groundwater quality not to comply with the groundwater standards established in ~~South Carolina Regulation~~ R.61-68.

B. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of swine manure and other swine by-products.

C. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a ~~s~~State-approved source water protection area.

2. 303(d) Impaired ~~Water bodies~~ Water Bodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or potential to adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area ~~which~~ is an area where groundwater recharge may affect an aquifer.

D. If an adverse impact to the Waters of the State, including ephemeral and intermittent streams, or groundwater from swine manure and other swine by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation R.61-68~~ or a significant adverse trend occurs, the Department may require the producer responsible for the swine manure and other swine by-products to conduct an investigation to determine the extent of impact. The Department may require the producer to remediate the water to within acceptable levels as set forth in ~~Regulation R.61-68~~.

E. No manure may be released from a swine manure lagoon, treatment system, or storage pond or the premises of a swine facility to Waters of the State, ~~(including ephemeral and intermittent streams,) unless the manure is treated to water quality standards and a permit pursuant to Section 402 or 404 of the CWA has been issued by the Department.~~

F. Swine medical waste cannot be disposed into swine lagoons, treatment systems, or manure storage ponds, or land applied with swine manure and other swine by-products.

G. In the event of a discharge from a swine lagoon, treatment system, or manure storage pond, the permittee is required to notify the Department immediately, within twenty-four (24) hours of the discharge.

H. When the Department determines that a nuisance exists at a swine facility, the permittee shall take action to correct the nuisance to the degree and within the time frame designated by the Department.

I. Permittees shall maintain all-weather access roads to their facilities at all times.

~~J. The body of vehicles transporting manure shall be wholly enclosed and while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.~~

#### **100.150. Odor Control Requirements.**

A. The Animal Facility Management Plan shall contain an odor abatement plan for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. The plan shall consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;
2. Use of treatment processes for the reduction of undesirable odor levels;
3. Additional setbacks from property lines beyond the minimum setbacks given in this part;
4. Other methods as may be appropriate; or
5. Any combination of these methods.

B. Producers shall utilize Best Management Practices normally associated with the proper operation and maintenance of a swine facility, lagoon, treatment system, manure storage pond, and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No producer may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is ~~at an undesirable level by considering the character and degree of injury or interference to:~~

- ~~1. The health or welfare of the people;~~
- ~~2. Plant, animal, freshwater aquatic, or marine life;~~
- ~~3. Property; or~~
- ~~4. Enjoyment of life or use of affected property.~~

~~D. After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. If the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to, the following:~~

~~E. The Department may require abatement or control practices, including, but not limited to the following:~~

- ~~1. Removal or disposal of odorous materials;~~
- ~~2. Methods in handling and storage of odorous materials that minimize emissions;~~
  - ~~a. Drying to a moisture content of fifty percent (50%) or less;~~
  - ~~b. Solids Separation from liquid manure, and composting of solids;~~
  - ~~c. Use Disinfection to kill microorganisms present in manure;~~
  - ~~d. Aeration of manure;~~
  - ~~e. Anaerobic digestion in a sealed vessel;~~
  - ~~f. Composting of solid manure and other swine by-products;~~
  - ~~g. Utilize Odor Control Additives.~~
- ~~3. Prescribed standards in the maintenance of premises to reduce odorous emissions;~~
  - ~~a. Filtration (biofilters or other filter used to remove dust and odor) of ventilation air;~~
  - ~~b. Keeping animals clean or and separated from manure;~~

- c. Adjust number of animals confined in the pens or paddocks in accordance with Clemson University Animal Space Guidelines;
- d. Frequent removal of manure from animal houses;
- e. Adding a layer of water in the shallow pits after the manure is removed;
- f. Feeding areas should be kept dry, and waste feed accumulation should be minimized;
- g. Maintaining feedlot surfaces in a dry condition (twenty-five to forty percent (25% to 40% moisture content)), with effective dust control;
- h. Proper maintenance of the dead swine disposal system;
- i. Covering or reducing the surface area of manure and other swine by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
- j. Planting trees around or downwind of the manure and other swine by-products storage and treatment facilities (trees shall not be planted within 25 feet of the toe of the dike);
- k. Incorporation of manure and other swine by-products immediately after land application; and
- l. Selection of appropriate times for land application.

4. Best Available Technology to reduce odorous emissions.

~~F. E.~~ Nothing in this section prohibits an individual or group of persons from bringing a complaint against a swine facility, including problems at lagoons, treatment systems, manure storage ponds, and manure utilization areas.

~~G. F.~~ If the permittee fails to control or abate the odor problems at a land application site to the satisfaction and within a time frame determined by the Department, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary to provide a sufficient amount of land for manure utilization. If the permittee fails to control or abate the odor problems at a swine facility, lagoon, treatment system, manure storage pond, and any manure utilization area to the satisfaction and within a time frame determined by the Department, the permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary, to provide a sufficient amount of land for manure utilization.

**100.160. Vector Control Requirements.**

~~A. Vector Abatement Plan.~~ The Vector Abatement Plan shall, at a minimum, consist of the following:

- 1. ~~Normal~~ Best management practices used at the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.



2. A list of specific actions to be taken by the producer if vectors are identified as a problem at the swine facility, lagoon, treatment system, manure storage pond, or any manure utilization area. These actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.

B. No producer may cause, allow, or permit vectors to breed or accumulate in quantities that result in a nuisance level, as determined by the Department.

~~C. The Department shall require remediation of the problem to the satisfaction of the Department, after determining a vector problem exists. For an existing facility, if the Department determines a vector problem exists, the Department may require these abatement or control practices, including, but not limited to, the following:~~

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;

2. Methods in handling and storage of materials that minimize vector attraction;

a. Remove spilled or spoiled feed from the house as soon as practicably possible, not to exceed forty-eight (48) hours, unless otherwise approved by the Department;

b. Remove and properly dispose of dead animals as soon as practicably possible, not to exceed twenty-four (24) hours, unless otherwise approved by the Department;

c. Increase the frequency of manure removal from animal houses;

d. Prevent solids buildup in the pit storage or on the floors or walkways;

e. Remove excess manure packs along walls and curtains;

f. Compost solid manure and other swine by-products;

g. Appropriate use of vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);

h. Utilize traps, or electrically charged devices;

i. Utilize biological agents;

j. Utilize Integrated Pest Management; and

k. Incorporate manure and other swine by-products immediately (within twenty-four (24) hours) after land application.

3. Prescribed standards in the maintenance of premises to reduce vector attraction;

a. Remove standing water that may be a breeding area for vectors;

b. Keep animals clean or separated from manure;

- c. Keep facility clean and free from trash or debris;
- d. Properly utilize and service bait stations;
- e. Keep feeding areas dry, and minimize waste feed accumulation;
- f. Keep grass and weeds mowed around the facility and manure storage or treatment areas;
- g. Maintain the dead swine disposal system;
- h. Cover or reduce the surface area of manure and other swine by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
- i. ~~Store feed and feed supplements properly~~ Properly store feed and feed supplements;
- j. Conduct a weekly vector monitoring program;
- k. Be aware of insecticide resistance problems, and rotate use of different insecticides;
- l. Prevent and repair leaks in waterers, water troughs or cups; and
- m. Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.

4. Utilize the Best available control technology to reduce vector attraction and breeding.

#### **100.170. Record Keeping.**

A. A copy of the approved Animal Facility Management Plan, including approved updates, and a copy of the permit(s) issued to the producer shall be retained by the permittee for as long as the swine facility is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. However, if the facility was permitted prior to June 26, 1998, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.

C. Records shall be developed for each manure utilization area. These records shall be kept for eight (8) years. The records shall include the following:

1. For each time swine manure and other swine by-products are applied to the site, the amount of swine manure and other swine by-products applied (in gallons per acre or pounds per acre, as appropriate), the ~~location of the site, and the date and time of manure and other swine by-products application~~ date and time of the application, and the location of the application;

2. All sampling results for swine manure that is land applied, ~~if applicable;~~

3. All soil monitoring results, ~~if applicable;~~

4. All groundwater monitoring results, if applicable; and

5. Crops grown.

D. Records for the facility to include the following on a monthly basis:

1. ~~Monthly a~~Animal count and the normal production animal live weight; and
2. Mortality count and method of disposal.

E. Records for lagoon, treatment system, or manure storage pond operations to include the following:

1. Monthly water levels of the lagoon, treatment system, and manure storage pond; and
2. Groundwater monitoring results, if applicable.

F. All records retained by the producer shall be kept at either the facility, an appropriate business office, or other location as approved by the Department.

G. All records retained by the producer shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

#### **100.180. Reporting.**

A. All large and X-large swine operations (~~greater than 500,000 pounds of normal production live weight~~) shall submit, on a form approved by the Department, the following on an annual basis or more frequently if required by a permit or regulation:

1. All manure sampling results for the last year, if applicable, and the latest rolling average concentration for the land limiting constituent;
2. All soil monitoring results, if applicable;
3. All groundwater monitoring results, if applicable;
4. Calculated application rates for all manure utilization areas; and
5. The adjusted application rates, if applicable, based on the most recent swine manure sampling, soil samples, and crop yields. The application rate change could also be due to a change in field use, crop grown, or other factors.

B. The Department may require small swine facilities (~~500,000 pounds or less of normal production live weight~~) to submit annual reports on a case-by-case basis.

C. The Department may establish permit conditions to require a swine facility to complete and submit a comprehensive report every five (5) years. The Department shall review this report to confirm that the permitted nutrient application rates have not been exceeded. Based on the results of the review, additional soil and/or groundwater monitoring requirements, permit modification, and/or corrective action may be required.

#### **100.190. Training Requirements.**

A. An owner/operator of a new or existing swine facility, lagoon, manure storage pond, or manure utilization area shall complete a training program on the operation of swine manure management created by Clemson University, i.e. (Camm).

B. Owners/Operators of new and existing ~~large~~ swine facilities (~~greater than 500,000 pounds of normal production live weight~~) shall be required to pass a test and become certified as a part of the training program created by Clemson University. ~~The Department may require operators with documented violations to pass a test through Clemson's program.~~

C. The ~~training and/or~~ certification shall be completed by owners/operators of new facilities prior to start-up of operations.

D. The ~~training and/or~~ certification shall be completed by owners/operators of existing facilities within two (2) years of the effective date of this regulation. The certification program shall be completed by owners/operators involved in a transfer of ownership within one (1) year of the transfer of ownership approval.

E. ~~Training and/or~~ The certification shall be maintained as long as the facility remains in operation.

F. Failure to obtain the ~~training and~~ certification as provided in this Section shall be deemed a violation of this ~~R~~regulation.

G. Additional Training and Certification Requirements for X-Large Swine Facilities ~~with 1,000,000 pounds or greater normal production live weight.;~~

1. The Department shall classify all manure treatment systems serving X-large swine facilities, giving due regard to size, types of work, character, and volume of manure to be treated, and the use and nature of the land resources receiving the manure.

2. Manure treatment systems may be classified in a group higher than indicated at the discretion of the Department by reason of the following:

a. Incorporation in the treatment system of complex features which cause the treatment system to be more difficult to operate than usual; or

b. A waste stream that is unusually difficult to treat; or

c. Conditions of flow; or

d. Use of the receiving lands requiring an unusually high degree of system operation control; or

e. Combinations of such conditions or circumstances.

3. The classifications for biological treatment systems are based on the following groups:

a. Group I - B. All agricultural manure treatment systems which include one (1) or more of the following units: primary settling, chlorination, sludge removal, ~~H~~Imhoff tanks, sand filters, sludge drying beds, land spraying, grinding, screening, oxidation, and stabilization ponds.

b. Group II - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Group I-B and, in addition, one (1) or more of the following units: sludge digestion, aerated lagoon, and sludge thickeners.

c. Group III - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-B and II-B and, in addition, one (1) or more of the following: trickling filters, secondary settling, chemical treatment, vacuum filters, sludge elutriation, sludge incinerator, wet oxidation process, contact aeration, and activated sludge (either conventional, modified, or high rate processes).

d. Group IV - B. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-B, II-B, and III-B and, in addition, treat manure having a raw five (5)-day biochemical oxygen demand of ~~five thousand~~ 5,000 pounds per day or more.

4. The classifications for physical chemical manure treatment systems are based on the following groups:

a. Group I-P/C. All agricultural manure treatment systems which include one (1) or more of the following units: primary settling, equalization, pH control, and oil skimming.

b. Group II-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Group I-P/C and, in addition, one (1) or more of the following units: sludge storage, dissolved air flotation, and clarification.

c. Group III-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-P/C and II-P/C and, in addition, one (1) or more of the following: oxidation/reduction reactions, cyanide destruction, metals precipitation, sludge dewatering, and air stripping.

d. Group IV-P/C. All agricultural manure treatment systems which include one (1) or more of the units listed in Groups I-P/C, II-P/C, and III-P/C and, in addition, one (1) or more of the following: membrane technology, ion exchange, tertiary chemicals, and electrochemistry.

5. It shall be unlawful for any person or corporation to operate an agricultural manure treatment system at an X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ unless the operator-in-charge holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the agricultural manure treatment system supervised by him or her.

#### **100.200. Violations.**

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

B. X-Large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall be assessed automatic penalties (up to \$10,000 per day per violation) for the following violations:

1. Lagoon, treatment system, or manure storage pond breach, or loss of containment that is not the direct result of an Act of God.

2. Manure Utilization Area runoff due to improper manure application methods.

3. Discharge to groundwater on site causing groundwater to exceed any water quality standard established in ~~Regulation~~R.61-68.

C. Second occurrence of any of the violations outlined in 100.2400.B. at ~~an~~ X-large swine facility ~~with 1,000,000 pounds or more normal production live weight~~ shall result in immediate revocation of the permit and the automatic assessment of appropriate penalties.

D. Immediate cessation of manure application will also be enforced on sites where groundwater quality is adversely affected.

E. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Department to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to Sections 48-1-320 and 48-1-330 of the S.C. Code of Regulations.

## **PART 200 ANIMAL FACILITIES (OTHER THAN SWINE)**

- ~~200.10. Purpose, Applicability, Inactive Facilities and Facilities Permitted Prior to the Effective Date of Regulation.~~
- ~~200.20. Permits and Compliance Period.~~
- ~~200.30. Exclusions.~~
- ~~200.40. Relationship to Other Regulations.~~
- ~~200.50. Permit Application Requirements (Animal Facility Management Plan Submission Requirements).~~
- ~~200.60. Public Notice Requirements.~~
- ~~200.70. Permit Decision Making Process.~~
- ~~200.80. Facility, Lagoon, Treatment Systems, and Manure Storage Pond Siting Requirements.~~
- ~~200.90. General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds.~~
- ~~200.100. Manure Utilization Area Requirements.~~
- ~~200.110. Spray Application System Requirements.~~
- ~~200.120. Frequency of Monitoring for Animal Manure.~~
- ~~200.130. Dead Animal Disposal Requirements.~~
- ~~200.140. Other Requirements.~~
- ~~200.150. Odor Control Requirements.~~
- ~~200.160. Vector Control Requirements.~~
- ~~200.170. Record Keeping.~~
- ~~200.180. Reporting.~~
- ~~200.190. Training Requirements.~~
- ~~200.200. Violations.~~

### **200.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of the Regulation.**

#### **A. Purpose.**

1. To establish standards for the growing or confining of animals, processing of animal manure and other animal by-products, and land application of animal manure and other animal by-products in such a

manner as to protect the environment, and the health and welfare of citizens of ~~T~~the State from pollutants generated by this process.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the utilization of animal manure and other animal by-products generated at animal facilities. Standards included in this part are for animal manure and other animal by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for producers who operate animal facilities.

4. To establish standards for the proper operation and maintenance of animal facilities.

5. To establish criteria for animal facilities' and manure utilization areas' location as they relate to protection of the environment and public health. The location of animal facilities and manure utilization areas as they relate to zoning in an area is not covered in this regulation. Local county or municipal governments may have zoning requirements and ~~these~~this regulations neither interferes with nor restricts such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

#### B. Applicability.

1. This part applies to:

a. All new animal facilities;

b. All expansions of existing animal facilities;~~and~~

c. New manure utilization areas for existing animal facilities;

d. All inactive facilities; and

e. All facilities and lagoon closures.

2. This part applies to all animal manure and other animal by-products applied to the land.

3. This part applies to all land where animal manure and other animal by-products are applied.

#### C. Inactive Facilities.

1. If an animal facility is ~~closed~~inactive for two (2) years or less, a producer may ~~renew~~resume operations of the facility under the same conditions by which it was previously permitted by notifying the Department in writing that the facility is being operated again.

2. For animal facilities that have been ~~closed~~inactive for more than two (2) years but less than five (5) years, the Department shall review the existing permit and modify its operating conditions as necessary prior to the facility being placed back into operation.

3. For all other than swine animal facilities that have been ~~closed~~inactive for five (5) or more years, the producer shall properly close out any lagoon, treatment system, or manure storage pond associated with the facility. The closeout shall be accomplished in accordance with ~~Regulation R.61-82~~. The permittee shall

submit a closeout plan that meets, at a minimum, NRCS-CPS within a time frame prescribed by the Department. Additional time may be granted by the Department to comply with the closeout requirement or to allow the producer to apply for a new permit under this regulation, as appropriate.

~~4. If an animal facility closes for more than five years, the requirements under this part shall be met before the facility can renew operations. If an animal facility is inactive for more than five (5) years, the permit is considered expired and the producer shall apply for a new permit and all requirements of this regulation shall be met before the facility can resume operations.~~

5. During the closeout of the facilities and/or lagoons/waste storage ponds, annual fees are required until proper closeout is certified and approved.

#### D. Facilities Permitted Prior to the Effective Date of the Regulation.

1. All existing animal facilities with permits issued by the Department before June 28~~6~~, 1998, do not need to apply for a new permit as they are deemed permitted (deemed permitted animal facilities) unless they have been ~~closed~~inactive for more than two (2) years or expand operations. These facilities shall meet the following sections of Part 200: Section 200.20 (Permits and Compliance Period);~~;~~ Section 200.90.A-, D-, and J-~~—O-~~ (General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds);~~;~~ Section 200.100.~~B-1-22.~~ (Manure Utilization Area Requirements);~~;~~ Section 200.110.H-~~I-~~ (Spray Application System Requirements);~~;~~ Section 200.120.A-, C-~~D-~~ (Frequency of Monitoring for Animal Manure);~~;~~ Section 200.130.A-, B-, and C.2.-3. (Dead Animal Disposal Requirements);~~;~~ Section 200.140.A-, C-~~I-~~ (Other Requirements);~~;~~ Section 200.150.B-~~F-~~ (Odor Control Requirements);~~;~~ Section 200.160.B-~~D-~~ (Vector Control Requirements);~~;~~ Section 200.170 (Record Keeping);~~;~~ Section 200.180 (Reporting);~~;~~ Section 200.190 (Training Requirements);~~;~~ and Section 200.200 (Violations). The capacity of a deemed permitted facility that does not have a lagoon is the number of animals and normal production animal live weight permitted by the Department prior to the effective date of ~~these~~this regulations. For deemed permitted facilities with lagoons, the capacity is the maximum capacity of the existing animal manure lagoon, treatment system, and animal manure storage pond as determined using the appropriate animal manure lagoon, treatment system, and animal manure storage pond capacity design criteria of the United States Department of Agriculture's Natural Resource Conservation Service.

2. All existing animal facilities with permits issued by the Department between June 26, 1998, and the effective date of ~~these~~this regulations do not need to apply for a new permit if they hold a valid permit from the Department, unless they have been ~~closed~~inactive for more than two (2) years. These facilities shall meet all the requirements of ~~these~~this regulations.

3. All existing animal facilities that were constructed and placed into operation prior to June 26, 1998, but have never received an agricultural permit from the Department, shall apply for a permit from the Department. This facility shall meet all the requirements of this regulation as the Department determines appropriate. The Department shall review the site and make a determination on a case-by-case basis on which requirements are applicable.

4. An existing animal facility may be required to ~~obtain~~submit an updated Animal Facility Management Plan on a case-by-case basis by the Department. The Department shall notify the permittee in writing of this requirement. The permittee has six (6) months or an agreed upon time frame from the date of notification to submit an updated Animal Facility Management Plan. Failure to submit the updated plan within this time frame is a violation of the South Carolina Pollution Control Act and ~~these~~this regulations, and may result in permit revocation.



5. Both the setbacks and other requirements for manure utilization areas shall be met when a new manure utilization (MUA) area is added by the owner of any animal facility regardless of when the facility was permitted.

6. If an existing animal facility regulated under this part proposes to convert to a swine facility, it shall be considered a new swine facility under ~~these~~this regulations. Converted facilities shall be permitted as new swine facilities and meet all criteria for new swine facilities before they begin operation as a swine facility.

#### **200.20. Permits and Compliance Period.**

A. Permit Requirement. Animal manure and other animal by-products from a new or expanded animal facility can only be generated, handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department under the provisions of this part. Existing producers that are required by the Department to update their Animal Facility Management Plan shall meet the requirements of this part to the extent practical as determined by the Department.

B. Permits issued under this regulation are no-discharge permits.

C. The requirements in this part shall be implemented through a permit issued to any producer who operates an animal facility where animal manure and other animal by-products are ~~produced, processed, or disposed~~generated, handled, treated, stored, processed, or land applied.

D. The requirements under this part may be addressed in permits issued to producers who only land apply animal manure and other animal by-products.

E. Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, except ~~where noted~~as otherwise noted, prior to any change in ~~operational~~s~~procedures~~ at a permitted facility, including, but not limited to, the following:

1. Change in ownership and control of the facility. The Department has thirty (30) calendar days from the receipt of a complete and accurate notification of transfer of ownership to either: request additional information regarding the transfer or the new owner; deny the transfer; or approve the transfer of ownership. If the Department does not act within thirty (30) calendar days, the transfer is automatically approved. If additional information is requested by the Department in a timely manner, the Department shall act on this additional information, when it is received, within the same time period as the initial notification.

2. Increase in the permitted number of animals.

3. Addition of manure utilization areas.

4. Change in animal manure and other animal by-products treatment, handling, storage, processing, or utilization.

5. Change in method of dead animal disposal.

F. ~~Permit Modification~~. Permit modifications for items 200.20.E.2 and 200.20.E.4 for facilities regulated under this part, which will result in expansions, shall adhere to the requirements of this part and other applicable statutes, regulations, or guidelines.

G. Permit modification for items 200.20.E.2 which result in an expansion may be required to obtain new written waivers or agreement for reduction of setbacks from adjoining property owners (if applicable).

### **200.30. Exclusions.**

The following do not require permits from this part unless specifically required by the Department under item 200.30.G.

A. Existing animal facilities that are deemed permitted under Section 200.10.D.1 are excluded from applying for a new permit unless an expansion is proposed, new manure utilization areas are added, or as required by the Department. However, deemed permitted facilities shall meet the requirements of this regulation as outlined in Section 200.10.D (Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of the Regulation).

B. Except as given in Section 200.30.G, animal facilities with only ranged animals, and no lagoon, treatment system, or manure storage pond is associated with the facility, are excluded from obtaining a permit from the Department. The range area shall be of sufficient size to allow for natural degradation or utilization of the animal manure with no adverse impact to the environment. Ranged facilities shall also maintain adequate vegetative buffers between the animal range and Waters of the State.

C. Except as given in Section 200.30.G, animal facilities, ~~that~~which do not have a lagoon, manure storage pond, or liquid manure treatment system, having 10,000 pounds or less of normal production animal live weight at any one time are excluded from obtaining a permit from the Department, ~~but~~. However, these facilities shall have and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

D. Except as given in Section 200.30.G, animal facilities, ~~that~~which do not have a lagoon, manure storage pond, or liquid manure treatment system, having more than 10,000 pounds of normal production animal live weight at any one time and having less than 30,000 pounds of normal production animal live weight at any one time are excluded from obtaining a permit from the Department. However, these facilities shall submit an Animal Facility Management Plan to the Department and implement an Animal Facility Management Plan for their facility that meets the requirements of this regulation.

E. Except as given in Section 200.30.G, animal facilities that are not classified as commercial facilities are excluded from obtaining a permit from the Department.

F. Except as given in Section 200.30.G, animal facilities that hold valid permits issued by the Department are not required to obtain a new permit if they decide to replace in kind any of the animal growing houses. ~~If the permittee chooses to leave the old houses in place to utilize for another purpose other than housing animals, the Department shall perform a preliminary site inspection for the proposed location of the replacement houses and approve the site prior to construction.~~

G. Animal facilities exempted under Sections 200.30.A, B, C, D, E, and F may be required by the Department to obtain a permit. The Department shall visit the site before requiring any of these facilities to obtain a permit.

### **200.40. Relationship to Other Regulations.**

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~B.A.~~ Application and annual operating fees are addressed in Regulation R.61-30, Environmental Protection Fees.

~~CB.~~ The proper closeouts of wastewater treatment facilities are addressed in Regulation R.61-82, Proper Closeout of Wastewater Treatment Facilities. This includes animal lagoons and manure storage ponds.

~~D. Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.~~

~~EC.~~ Setbacks and construction specifications for potable water wells and monitoring wells shall be in accordance with Regulation R.61-71, Well Standards.

~~FD.~~ Permits for air emissions from incinerators are ~~contained~~ addressed in Regulation R.61-62, Air Pollution Control Regulations and Standards.

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in Regulation R.61-107.25819, Solid Waste Management: Solid Waste Landfills and Structural Fill.

~~HF.~~ Disposal of animal manure with domestic or industrial sludge is addressed in Regulation R.61-9, Water Pollution Control Permits, and permitted under R.61-9.

~~I. Procedures for contested cases are addressed in Regulation 61-72 and the Rules of the State's Administrative Law Judge Division.~~

~~JG.~~ Laboratory ~~C~~ertification is addressed in Regulation R.61-81, State Environmental Laboratory Certification Program.

~~KH.~~ Water Classifications and Standards are addressed in Regulation R.61-68.

## **200.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).**

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for a preliminary site inspection shall be made using a form, ~~as designated~~ provided by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan. Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new animal facility or expand an existing animal facility shall make application for a permit under this part using an application form ~~as designated~~ provided by the Department. The following information shall be included in the application package.

1. A completed and accurate application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service (NRCS) personnel or a S.C. registered professional engineer (PE). Other qualified individuals, such as certified soil scientists, etc., or S.C. registered professional geologists (PG), may prepare the land

application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall, at a minimum, contain:

a. Facility name, address, telephone numbers, email address (if applicable), county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning or land use restrictions in this area (this information is available from the county);

c. Applicant's name, address, email, and telephone number (if different from above);

d. Operator's name and CAMM number (if available)

e. Facility capacity;

i. Number and type of animals;

ii. Pounds of normal production animal live weight at any one time;

iii. Amount of animal manure and other animal by-products generated per year (gallons for liquid animal manure and pounds for dry animal manure);

iv. Amount in tons of any scraped or separated solid animal manure and other animal by-products generated per year (if applicable);

v. Description of animal manure and other animal by-products storage and storage capacity of lagoon, treatment system, or manure storage pond (if applicable); and

vi. Description of animal manure and other animal by-products treatment (if any).

f. Concentration of constituents in liquid animal manure including, but not limited to, the constituents given below:

i. Nutrients.

(a) Nitrate (only needed for aerobic systems).

(b) Ammonium-Nitrogen.

(c) Total Kjeldahl Nitrogen (TKN).

(d) Organic-Nitrogen (TKN - Ammonium-Nitrogen).

(e) P<sub>2</sub>O<sub>5</sub>.

(f) K<sub>2</sub>O (potash).

ii. Constituents.

(a) Arsenic.

(b) Copper.

(c) Zinc.

iii. Name, address, S<sub>2</sub>C<sub>2</sub> lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new animal facilities, liquid animal manure analysis information does not have to be submitted as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual animal manure generated shall be submitted to the Department twelve (12) months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Concentration of constituents in dry animal manure including, but not limited to, the following:

i. Nutrients (on a dry weight basis).

(a) Total Kjeldahl Nitrogen (mg/kg).

(b) Total inorganic nitrogen (mg/kg).

(c) Total ammonia nitrogen (mg/kg) and Total nitrate, nitrogen (mg/kg).

(d) P<sub>2</sub>O<sub>5</sub> (mg/kg).

(e) K<sub>2</sub>O (mg/kg).

(f) Calcium Carbonate equivalency (if animal manure is alkaline stabilized).

ii. Constituents (on a dry weight basis).

(a) Arsenic (mg/kg).

(b) Copper (mg/kg).

(c) Zinc (mg/kg).

iii. Name, address, S<sub>2</sub>C<sub>2</sub> lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new animal facilities, dry animal manure analysis information does not have to be submitted as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual dry animal manure generated shall be submitted to the Department twelve (12) months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area, ~~which ever~~

whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

h. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the animal manure application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, and telephone number of the producer(s) that will land apply the animal manure and other animal by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the animal manure and other animal by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

i. Facility and manure utilization area information shall be included (as appropriate):

i. Name ~~and~~, address, and tax map number of landowner and location of manure utilization area(s);

ii. List previous calendar years that animal manure and other animal by-products ~~was~~ were applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.5' or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on the applicant's property and within 200 feet of the facility's property line or within 200 feet of any manure utilization areas;

(d) Adjacent surface water bodies (including ephemeral and intermittent streams);

(e) Animal manure utilization area boundaries and buffer zones;

(f) ~~R~~right-of-~~W~~ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soils maps, a description of soil types, and boring locations (if applicable);

(h) Recorded ~~P~~plots, ~~S~~surveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year and 500-year floodplain (as determined by FEMA).

vi. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name, farm address, CAMM number, and county in which the farm is located;

(b) Landowner's name, address, phone number;

(c) Location (map with road names, tax map numbers, and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and any manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan; and

(h) A signed statement which informs the landowner that he or she is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and ~~Regulation 61-43~~ this regulation.

~~v. For other manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan.~~

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 200.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the animal facility, lagoon, treatment system, ~~or~~ manure storage pond, and manure utilization areas. For more specific details see Section 200.160 (Vector Control Requirements).

6. The Dead Animal Disposal Plan. ~~The plan~~ shall include written details for the handling and disposal of dead animals. Plans should detail method of disposal, any construction specifications necessary, and management practices. See Section 200.130 (Dead Animal Disposal Requirements) for specific requirements on dead animal disposal.

7. A Soil Monitoring Plan. ~~A soil monitoring plan~~ shall be developed for all manure utilization areas. See Section 200.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All “Notice of Intent to Build or Expand an Animal Facility” forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings. See Section 200.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan should, at a minimum, contain a list of entities or agencies the producer ~~should~~ shall contact in the event of lagoon, treatment system, or manure storage pond breach, ~~major~~ mass animal mortality, fire, flood, or other similar type problem. For facilities in the coastal areas of the state, the emergency plan should address actions to be taken by a producer during hurricane season (such as providing additional freeboard during that time) and when advance warning is given on any extreme weather condition.

11. ~~Adjoining property owners written agreement for reduction of setbacks (if applicable)~~ All waivers as specified in Section 200.80 (Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements), if applicable.

12. Application fee and first year’s operating fee as established by ~~Regulation~~ R.61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the animal facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications only need to contain the information applicable to the requested modification or any additional information the Department deems necessary.

### **200.60. Public Notice Requirements.**

A. For new animal facilities, the applicant shall notify all property owners within 1,320 feet of the proposed location of the facility (footprint of construction) of the applicant’s intent to build an animal facility. The applicant shall use a notice of intent form provided by the Department. The Department shall post the Public Notice of application received on the Department’s website for fifteen (15) business days. The Department ~~shall~~ may also post up to four (4) notices, in the four (4) cardinal directions ~~on~~ around the perimeter of the property or in close proximity to the property, in locations visible ~~to~~ to the public within the public right-of-ways determined by the Department. The notice of intent on the Department’s website shall advise adjoining property owners that they can send comments on the proposed animal facility directly to the Department.

B. For properties that have multiple owners or properties that are in an estate with multiple heirs, the Department, ~~at the expense of the applicant,~~ shall publish a notice of intent to construct an animal facility ~~in a local paper of general circulation in the area of the facility~~ on the Department’s website. This notice ~~in the newspaper~~ on the Department’s website shall serve as notice to these multiple property owners of the producer’s intent to build an animal facility. ~~The cost to run this notice is not included in the application fee, and therefore shall be billed directly to the permit applicant for payment. This notice fee shall be paid prior to the issuance of the permit.~~



C. For existing animal facilities seeking to expand their current operations, the Department shall post the Public Notice of application received on the Department's website for fifteen (15) business days. The Department may also post up to four (4) notices in the four (4) cardinal directions around the perimeter of the property or in close proximity to the property, in locations visible to the public right-of-way or as determined by the Department.

D. The Department shall review all comments received. If the Department receives twenty (20) or more letters from different ~~people~~ "Affected Persons" requesting a meeting or the Department determines significant comment exists, a meeting shall be held to discuss and seek resolution to the concerns prior to a permit decision being made. All persons who have submitted written comments shall be invited in writing to the meeting. First Class US mail service, email, or hand delivery to the address of a person to be notified shall be used by the Department for the meeting invitation. However, if the Department determines that the number of persons who submitted written comments is significant, the Department shall publish a notice of the public meeting ~~in a local newspaper of general circulation~~ on the Department's website instead of notifying each individual by ~~First eClass mail or email~~. In addition, the Department shall notify all group leaders and petition organizers in writing. Agreement of the parties is not required for the Department to make a permit decision.

E. When comments are received by ~~electronic mail~~, the Department shall acknowledge receipt of the comment by ~~electronic mail~~. These comments shall be handled in the same manner as written comments received by postal mail.

F. The Department shall consider all relevant comments received in determining a permit decision.

G. The Department shall give notice of the permit decision to issue or deny the permit to the applicant, all persons who commented in writing to the Department, and all persons who attended the meeting, if held. First Class US mail service or email shall be used by the Department for the notice of decision. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department shall only notify all group leaders and petition organizers in writing. The Department shall ask these leaders and organizers to notify their groups or any concerned citizens who signed the petitions.

H. For permit issuances, the Department shall publish a notice of issuance of a permit to construct or expand an animal facility ~~in a local newspaper of general circulation in the area of the facility~~ on the Department's website.

I. For permit denials, the Department shall give the permit applicant a written explanation, which outlines the specific reasons for the permit denial.

J. For permit denials, the Department shall publish a notice of decision ~~in a local newspaper of general circulation in the area of the facility or send each concerned citizen who submitted written comments a letter by first class mail~~ on the Department's website.

K. The Department shall include, at a minimum, the following information in the public notices on permit decisions: the name and location of the facility; a description of the operation and the method of manure handling; instructions on how to appeal the Department's decision; the time frame for filing an appeal; the date of the decision; and the date upon which the permit becomes effective.

## **200.70. Permit Decision Making Process.**

A. No permit shall be issued before the Department receives a complete application ~~for a permit package.~~

B. The agricultural program of the Department is not involved in local zoning and land use planning. Local government(s) may have more stringent requirements for agricultural animal facilities. The permittee is responsible for contacting the appropriate local government(s) to ensure that the proposed facility meets all the local requirements.

C. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Animal Facility Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

D. A preliminary site inspection shall be made by the Department before a ~~permit decision is made~~ complete application package is received by the Department.

E. The Department shall act on all permits to prevent, so far as reasonably possible considering relevant standards under state and federal laws, an increase in pollution of the waters and air of the State from any new or enlarged sources.

F. The setback limits given in ~~this part~~ Part 200 are ~~minimum~~ siting requirements ~~(with exception to those that are not labeled as minimum requirements, which are absolutes).~~ ~~On a case by case basis the Department may require additional separation distances applicable to animal facilities, lagoons, treatment systems, manure storage ponds, and manure utilization areas.~~ The Department shall evaluate the proposed site including, but not limited to, the following factors when determining to determine if additional distances any special conditions are necessary:

1. ~~Proximity to 100-year floodplain~~ Latitude and Longitude;
2. ~~Geography and soil types on the site;~~ Down-wind receptors; and
3. ~~Location in a watershed;~~ Nutrient Management Plan.
4. ~~Classification or impairment of adjacent waters;~~
5. ~~Proximity to a State Designated Focus Area; Outstanding Resource Water; Heritage Corridor; Historic Preservation District; State Approved Source Water Protection Area; state or national park or forest; state or federal research area; and privately owned wildlife refuge, park, or trust property;~~
6. ~~Proximity to other known point source discharges and potential nonpoint sources;~~
7. ~~Slope of the land;~~
8. ~~Animal manure application method and aerosols;~~
9. ~~Runoff prevention;~~
10. ~~Adjacent groundwater usage;~~
11. ~~Down wind receptors; and~~

~~12. Aquifer vulnerability.~~

~~G. The appeal of a permit decision is governed by the SC Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Division.~~

~~HG.~~ When a permit is issued, it shall contain an issue date, an effective date, and, when applicable, a construction expiration date. The effective date shall be at least ~~twenty (20)~~fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit shall be effective on the effective date.

~~I. The permit may contain a permit expiration date. If a facility is classified as a CAFO under the NPDES Regulation 61-9, the expiration date shall be no more than five years after the issue date.~~

~~JH.~~ An expired permit (final expiration date for renewal) issued under this part continues in effect until a new permit is effective if the permittee submits a complete application, to the satisfaction of the Department, at least one hundred eighty (180) calendar days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two (2) consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing within thirty (30) calendar days of when they go out of business.

~~KI.~~ The animal facility, lagoon, treatment system, or manure storage pond can be built only when the permit is effective ~~with no appeals pending~~. The facility cannot be placed into operation until the Department ~~grants written authorization to begin operations~~has issued a written Approval to Operate (ATO).

~~LJ.~~ To receive ~~authorization to begin operations~~an ATO, the producer shall have the preparer of the Animal Facility Management Plan submit to the Department, written certification that the construction has been completed in accordance with the approved Animal Facility Management Plan and the requirements of this regulation.

~~MK.~~ The Department ~~may~~shall conduct a final inspection before granting ~~authorization~~an ATO to a producer to begin operations.

~~NL.~~ The Department shall grant written ~~authorization~~approval for the producer to begin operations after it has received the certification statement in 200.70.~~LJ~~ and the results of the final inspection, ~~if conducted,~~ are satisfactory.

~~OM.~~ Animal Facility Construction Permit Expiration and Extensions.

1. Construction permits issued by the Department for agricultural animal facilities shall be given two (2) years from the effective date of the permit to start construction and three (3) years from the effective date of the permit to complete construction.

2. If the proposed construction ~~proposed under~~as outlined in the permit is not started prior to the construction start expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

3. If construction is not completed and the facility is not placed into operation prior to the construction completion expiration date, the construction permit is invalid unless an extension in accordance with this regulation is granted.

4. If a portion of the permitted facility (some of the animal growing houses are completely constructed, but not all houses originally permitted were constructed) is completed prior to the construction completion expiration date, the construction for the remainder of the permit may be utilized within the permit life. The permittee shall obtain Departmental approval prior to utilizing the permit in this manner. The Department may require that the permittee submit additional information or update the Animal Facility Management Plan prior to approval.

5. Extensions of the permit construction start and completion expiration dates may be granted by the Department. The permittee shall submit a written request explaining the delay and detailing any changes to the proposed construction. This request shall be received not later than ~~10 days prior to the expiration date~~ that the permittee proposes to extend. The maximum extension period shall not exceed one (1) year. There shall be no more than two (2), one (1)-year extension periods per permit to construct, granted.

### **200.80. Animal Facility, Lagoon, Treatment Systems, and Manure Storage Pond Siting Requirements.**

#### A. Siting requirements applicable to all animal facilities.

1. The minimum separation distance between an animal facility (animal growing areas, houses, pens or barns, not including range areas or manure utilization areas) and a public or private drinking water well (excluding the applicant's well) is 200 feet. The minimum separation distance between an animal facility and a potable water well owned by the applicant is 50 feet (as required by R.61-71).

2. The minimum separation distance between an animal facility and Waters of the State (including ephemeral and intermittent streams) located down slope from the facility is 100 feet. ~~The setbacks required from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

3. Except for site drainage, the minimum separation distance required between an animal facility and a ditch or swale located down slope from the facility is 50 feet. ~~The setbacks required from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

4. A new animal facility or an expansion of an established animal facility shall not be located in the 100-year floodplain.

5. The separation distance required between ~~the~~ a small animal facility or growing areas (pens or barns not including range areas) and the lot line of real property owned by another person is 200 feet ~~or and~~ 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is 500,000 pounds or less.~~

6. The separation distance required between ~~the~~ large or X-large animal facilities or growing areas (pens or barns not including range areas) and the lot line of real property owned by another person is 400 feet ~~or and~~ 1,000 feet from the nearest residence, ~~whichever is greater, when the normal production animal live weight at any time is greater than 500,000 pounds.~~

#### B. Siting requirements applicable to all animal lagoons, treatment systems, and manure storage ponds.

1. The minimum separation distance between a lagoon, treatment system, or manure storage pond and a public or private drinking water well (excluding the applicant's well) is 200 feet. The minimum separation distance between an animal lagoon, treatment system, or manure storage pond and a potable water well owned by the applicant is 100 feet.

~~2. The minimum separation distance between an animal lagoon, treatment system, or manure storage pond and ephemeral and intermittent streams located down slope from the facility is 100 feet. The setback from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~3. Except for site drainage, the minimum separation distance required between an animal lagoon, treatment system, or manure storage pond and a ditch or swale located down slope from the facility is 50 feet. The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

~~4. The minimum separation distance required between an animal lagoon, treatment system, or manure storage pond and Waters of the State (not including ephemeral and intermittent streams) located down slope from the facility is 100 feet. If the Waters of the State are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and Waters of the State is 500 feet.~~

~~5. A new animal lagoon, treatment system, or manure storage pond or an expansion of an established animal lagoon, treatment system, or manure storage pond shall not be located in the 100-year floodplain.~~

~~6. The separation distance required between a small animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 300 feet or 1,000 feet from the nearest residence, whichever is greater, when the normal production animal live weight at any time is 500,000 pounds or less.~~

~~7. The separation distance required between a large animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 500 feet ~~or~~ and 1,000 feet from the nearest residence, whichever is greater, when the normal production animal live weight at any time is greater than 500,000 pounds.~~

~~7. The separation distance required between an X-large animal facility lagoon, treatment system, or manure storage pond and real property owned by another person is 600 feet and 1,320 feet from the nearest residence.~~

C. Siting requirements applicable to all dry animal manure and other animal by-products treatment or storage facilities (including, but not limited to, stacking sheds, burial sites, incinerators, and manure or, and dead animal composters).

1. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and a public or private drinking water well (excluding the applicant's well) is 100 feet. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and a potable water well owned by the applicant is 50 feet.

2. Except for site drainage, the minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility and a ditch or swale located down slope from the

facility is 50 feet. ~~The setback from ditches may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

3. The minimum separation distance between a dry animal manure and other animal by-products treatment or storage facility and Waters of the State including ephemeral and intermittent streams located down slope from the facility is 100 feet. ~~The setback from ephemeral and intermittent streams may be reduced by the Department, if a permanent vegetative water quality buffer, that meets NRCS standards at a minimum, is installed and maintained.~~

4. A new dry animal manure and other animal by-products treatment or storage facility or an expansion of an established dry animal manure and other animal by-products treatment or storage facility shall not be located in the 100-year floodplain.

5. The separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated at an animal growing facility and the lot line of real property and a residence owned by another person shall be equivalent to the setback required for the animal growing areas or houses.

6. The minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated by a manure broker and the lot line of real property owned by another person is 200 feet and 1,000 feet to the nearest residence. ~~However, the Department shall evaluate each proposed site to consider increasing this minimum amount distances, when the amount of manure stored, treated or processed at this facility is significant.~~

D. Water (a pond) that is completely surrounded by land owned by the permit applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

E. All lagoon and manure storage pond setbacks contained in this part shall be measured from the outside toe of the dike.

~~F. The setback limits given in this part are minimum siting requirements, except those not labeled as minimum requirements, which are absolutes. On a case by case basis the Department may require additional separation distances for the minimum setbacks applicable to animal facilities. See Section 200.70.F. (Permit Decision Making Process), which outlines some of the factors considered to determine if additional setbacks should be required.~~

~~G.~~ The separation distances for property lines given in Section 200.80.A, B, and C above can be waived or reduced by written consent of the adjoining property owner. Written consent is not needed when the Department reduces the distances under the requirements of Part 300.

~~H. The separation distances to the property lines of adjacent land as provided in Section 200.80.A, B and C above do not apply to an animal facility, lagoon, treatment system, or manure storage pond which is constructed or expanded, if the adjoining land is owned and managed by a professional silvicultural corporation, is currently in agricultural crop production, or is zoned for agricultural land use. However, the separation distances for residences shall be met by the animal facility, lagoon, treatment system, or manure storage pond, unless a written waiver from the property owner has been obtained.~~

## **200.90. General Requirements for Animal Manure Lagoons, Treatment Systems, and Animal Manure Storage Ponds.**

A. The lagoon, treatment system, or manure storage pond shall be designed by a professional engineer or an NRCS engineer and the construction shall be certified by the design engineer or professional engineer licensed in S.C. It is a violation of these regulations and the South Carolina Pollution Control Act for the owner or operator of the facility to make modifications or physical changes to the lagoon, treatment system, or manure storage pond without the prior approval of the Department and supervision of NRCS or a professional engineer. Plans and specifications for lagoon, treatment system, or manure storage pond modifications shall be designed and certified by NRCS or a professional engineer and submitted to the Department for approval prior to the modification.

B. Animal manure lagoons and manure storage ponds shall be designed, at a minimum, to NRCS-CPS. The lagoon or manure storage pond shall be designed to provide a minimum storage for manure, wastewater, normal precipitation less evaporation, normal runoff, residual solids accumulation, capacity for the 25~~50~~ (50) year-twenty-four ~~(24)~~ hour storm event (precipitation and associated runoff) and at least ~~one and one half (1 1/2)~~ 2 feet of freeboard.

C. All lagoons and storage ponds shall be provided with a liner, designed with an initial specific discharge rate of less than 0.0156 feet/day, in order to protect groundwater quality. When lagoons or manure storage ponds are lined only using soils with low permeability rates (e.g., clay), the Department shall require appropriate documentation to demonstrate that the computed soil permeability rates of the liner are sufficiently low or certification from the preparer of the Animal Facility Management Plan that the NRCS design standards for lining lagoons and/or manure storage ponds with soils have been met. When geomembrane liners are utilized, they shall be designed, at a minimum, to meet NRCS-CPS.

D. If seepage results in either an adverse impact to groundwater or a significant adverse trend in groundwater quality occurs as determined by the Department, the lagoon or manure storage pond shall be repaired at the owner's or operator's expense. Assessment and/or additional monitoring (more wells, additional constituents, and/or increased sampling frequency) may be required by the Department to further assess the extent of the seepage. The repairs and/or assessment shall be completed in accordance with an implementation schedule approved by the Department. The Department may require groundwater corrective action.

E. Manure shall not be placed directly in or allowed to come into contact with groundwater and/or surface water. The minimum separation distance between the lowest point of the lagoon or manure storage pond and the seasonal high water table beneath the lagoon or manure storage pond is 2 feet. If a geomembrane liner is installed, the minimum separation distance is ~~one~~ 1 foot from the seasonal high water table. Designs that include controlled drainage for water table adjustment shall be evaluated by the Department on a case-by-case basis, and may include additional monitoring and groundwater control requirements. If a design is proposed for water table adjustment, the design shall not impact wetlands.

F. Monitoring wells may be required by the Department on a case-by-case basis upon Department review of the submittal package.

G. A groundwater monitoring plan shall be submitted with the permit application to the Department. All applicable State certification requirements regarding well installation, laboratory analyses, and report preparation shall be met. Each groundwater monitoring well installed shall be permitted and shall be sampled at least once annually by qualified personnel at the expense of the permittee. The results shall be submitted to the Department in accordance with the specified permit requirements. Groundwater Sampling results shall be maintained by the producer for eight (8) years. The Department may conduct routine and random visits to the animal facility to sample the monitoring wells.

H. Prior to operation of the lagoon or manure storage pond, all monitoring wells shall be sampled in accordance with the parameters identified in the permit such that a background concentration level can be established.

I. Before the construction of a lagoon and/or a manure storage pond, the owner or operator shall remove all under-drains that exist from previous agricultural operations that are under the lagoon or manure storage pond and/or within ~~twenty-five (25)~~ feet of the outside toe of the proposed lagoon or manure storage pond dike. This requirement does not include under-drains that are approved as a part of designs that include controlled drainage for water table adjustment.

J. Proper water levels in lagoons and manure storage ponds, as per plans and specifications, shall be maintained at all times by the permittee. The Department may require specific lagoon or manure storage pond volume requirements in permits. An approved marker shall be installed to measure water levels.

K. If a lagoon, treatment system, or manure storage pond, ~~or both~~ all of these, breaches or fails ~~in any way~~, the owner or operator of the animal facility shall immediately notify the Department, the appropriate local government officials, and the owners or operators of any potable surface water treatment plant located downstream from the animal facility that could reasonably be expected to be adversely impacted.

L. Lagoons, treatment systems, and manure storage ponds shall be completely enclosed with an acceptable fence, unless a fence waiver is obtained from the Department.

M. Lagoons and manure storage ponds shall have at least four (4) warning signs posted in the four (4) cardinal directions around the perimeter of the structure. These signs ~~should~~ must read, "Warning - Deep and Polluted Water", ~~and one should be posted on each side of the lagoon or manure storage pond.~~

N. Vegetation on the dikes and around the lagoon, treatment system, or manure storage pond should be kept below a maximum height of ~~eighteen~~ 18 inches. Trees or deeply rooted plants shall be prevented from growing on the dikes or within 25 feet of the outside toe of the dikes of the lagoon, treatment system, or manure storage pond. Existing trees on the dikes shall be evaluated by NRCS staff or a dam engineer licensed in South Carolina to determine if they should be removed or remain.

O. Livestock or other animals that could cause erosion or damage to the dikes of the lagoon, treatment system, or manure storage pond shall not be allowed to enter the lagoon, treatment system, or manure storage pond, or graze on the dike or within 25 feet of the outside toe of the dike.

P. The Department shall require existing facilities, regardless of size, with a history of manure handling, treatment, and disposal problems related to a lagoon, to phase out the existing lagoon and incorporate new technology.

#### **200.100. Manure Utilization Area Requirements.**

A. Application Rates. The Department shall approve an Animal Facility Management Plan that establishes an application rate for each manure utilization area based on the agronomic application rate of the specific crop(s) being grown, and the manure and other animal by-products' impact on the environment. The application rate shall be based on the limiting constituent (a nutrient or other constituent as given in item 200.100.B). In developing annual constituent loading rates and cumulative constituent loading rates, the Department shall consider:

1. Soil type;



2. Type of vegetation growing in land-applied area;
3. Proximity to 100-year floodplain;
4. Location in watershed;
5. Nutrient sensitivity of receiving land and waters;
6. Soil nutrient testing in conjunction with soil productivity information;
7. Nutrient, copper, zinc, and constituent content of the manure and other swine by-products being applied;
8. Proximity to a State Approved Source Water Protection Area;
9. Proximity to other point and nonpoint sources;
10. Slope of land (anything over ten percent (10%) must use runoff best management practices, runoff controls, or conservation features as per NRCS);
11. Distance to water table or groundwater aquifer;
12. Timing of manure application to coincide with vegetative cover growth cycle;
13. Timing of harvest of vegetative cover;
14. Hydraulic loading limitations;
15. Soil assimilative capacity;
16. Type of vegetative cover and its nutrient uptake ability;
17. Method of land application; and
18. Aquifer vulnerability.

B. Constituent Limits for Land Application of Liquid and Dry Animal manure and other animal by-products and Operational Practices for Land Application.

1. ~~Liquid and dry animal manure and other animal by-products.~~ Animal manure and other animal by-products containing only the standard constituents at normal concentrations as given by commonly accepted reference sources, such as Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, or NRCS, can be land applied at or below agronomic rates without any specific constituent limits in a permit. When the animal manure analysis indicates there are levels of arsenic, copper, zinc, or other constituents of concern, the Department shall establish constituent limits in permits for each constituent of concern to ensure the water quality standards of ~~Regulation R.61-68~~ are maintained. For these cases the producer shall comply with the following criteria:

a. Constituent Limits. If animal manure and other animal by-products subject to a constituent limit is applied to land, either:

i. The cumulative loading rate for each constituent shall not exceed the cumulative constituent loading rate for the constituent in Table 1 of Section 200.100; or

ii. The concentration of each constituent in the animal manure and other animal by-products shall not exceed the concentration for the constituent in Table 2 of Section 200.100.

b. Constituent concentrations and loading rates - animal manure and other animal by-products.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 200.100 - CUMULATIVE CONSTITUENT LOADING RATES		
Cumulative Constituent Loading Rate		
Constituent	(kilograms per hectare)	(pounds per acre)
Arsenic	41	37
Copper	1500	1339
Zinc	2800	2499

ii. Constituent concentrations.

TABLE 2 OF SECTION 200.100 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Arsenic	41
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 200.100 - ANNUAL CONSTITUENT LOADING RATES		
Annual Constituent Loading Rate		
Constituent	(kilograms per hectare per 365-day period)	(pounds per acre per 365-day period)
Arsenic	2.0	1.8
Copper	75	67
Zinc	140	125

c. Additional constituents limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. ~~No producer shall apply a~~Animal manure and other animal by-products shall not be applied subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 to land if any of the rates in Table 1 of Section 200.100.B.1 have been reached.

e. ~~No producer shall apply a~~Animal manure and other animal by-products or animal lagoon sludge shall not be applied to land during a 365-day period after the annual application rate in Table 3 of Section 200.100.B.1 has been reached.

f. If animal manure and the animal by-products subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 ~~has~~have not been applied to the site, ~~those~~then cumulative rates apply.

g. If animal manure and other animal by-products subject to the cumulative constituent loading rates in Table 1 of Section 200.100.B.1 ~~has~~have been applied to the site and the cumulative amount of each constituent applied to the site in the animal manure and other animal by-products is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 200.100.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manures in combination with the fertilizer shall not exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any producer who confines animals shall ensure that the applicable requirements in this part are met when the animal manure and other animal by-products are applied to the land.

3. Animal manure and other animal by-products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow-covered. Animal manure and other animal by-products shall not be applied during inclement weather or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless approved by the Department in an emergency situation.

4. Animal manure and other animal by-products shall not be placed directly in groundwater.

5. ~~The~~All land application equipment, when used once or more per year, shall be calibrated at least annually by the ~~producer~~person land applying. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the producer and made available for Department review upon request. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use.

6. ~~No producer shall apply a~~Animal manure and other animal by-products shall not be applied to the land except in accordance with the requirements in this part.

7. A producer who supplies animal manure and other animal by-products to another person for land application shall provide the person who will land apply the manure and other animal by-products with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. The producer shall also supply the person who will land apply the manure with a copy of the crop management plan included in their Animal Facility Management Plan ~~or a copy of the Land Application Requirements brochure approved by the Department which outlines the land application requirements and responsibility for proper management of animal manure.~~

8. Animal manure and other animal by-products shall not be applied to or discharged onto a land surface when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application unless approved by the Department. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with ~~d~~Departmental concurrence.

9. Soil sampling (usually 6 to 8 inch depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled at least once per year. If manure application frequency ~~shall~~will be less than once per year, then at least one (1) soil sample shall be taken prior to returning to that field for land application. All new manure utilization areas shall be

evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department. Additional soil sampling may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination

10. Soil sampling to a depth of ~~eighteen~~ 18 inches ~~shall~~ may be required by the Department to be performed within ~~forty-five~~ (45) calendar days after each application of animal manure, but no more than two (2) times per year if the application frequency is more than twice per year. This sampling shall be performed for at least three (3) years after the initial application on at least one (1) representative manure utilization area for each crop grown to verify the estimated calculated manure application rates for the utilization areas. The date of manure application and the date of sampling shall be carefully recorded. The sampling shall be conducted at depths of ~~zero to six~~ 0 to 6 inches, ~~six to twelve~~ 6 to 12 inches, and ~~twelve to eighteen~~ 12 to 18 inches with nitrates and phosphorus being analyzed.

11. The results of the pre-application and post-application sampling shall be used by the ~~producer~~ crop farmer to adjust as necessary, the amount of animal manure to be applied to a manure utilization area to meet the agronomic application rate for the crop(s) to be grown. These results shall be submitted to the Department at the time of application for permit renewal.

12. Additional soil sampling to greater depths may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination. ~~The permit shall give the appropriate depth and frequency for all soil sampling.~~

13. The permittee shall obtain the following information needed to comply with the requirements in this part:

a. Manure transfer contracts shall be developed for the producer to use with any person who is accepting manure in quantities greater than 12 tons per recipient per year. The contract should contain, at a minimum, the following information:

i. Name, address, county, and telephone number of the person who is purchasing or accepting animal manure and other animal by-products;

ii. Manure nutrient composition (pounds per ton of plant available nitrogen, phosphorus, and potassium to be filled in or provided by the producer. This information shall be obtained from three (3) manure analysis results and the producer shall provide this information on the manure transfer contract;

iii. Land application field information;

iv. Physical description (acreage, crop soil type);

v. Soil test results (phosphorus, zinc, and copper in pounds/acre); and

vi. Recommended application rates (nitrogen, phosphorus, and potassium in pounds/acre as reported on a soil test).

b. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, or a site plan sketch that includes the following information:

i. Manure application areas with setbacks outlined;

ii. Known water supply wells within 100 feet of property lines;

iii. Adjacent surface waters, including ditches, streams, creeks, and ponds; and

iv. Identification of roads and highways to indicate location.

c. Description of application equipment and name of person to land apply manure;

d. Signed agreement that informs the landowner that he or she is responsible and liable for land applying the animal manure and other animal by-products in accordance with this regulation; and

e. A copy of the land application requirements shall be provided to the recipient of the manure.

14. All persons who routinely accept manure from a producer, in quantities greater than ~~twelve~~ 12 tons per recipient per year, shall be listed in the approved Animal Facility Management Plan. The Animal Facility Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The producer shall inform the ~~recipient~~ applicator of their responsibility to properly manage the land application of manure to prevent discharge of pollutants to Waters of the State (including ephemeral and intermittent streams). A manure transfer contract must be signed. The person accepting the manure may be required by the Department to have an Animal Facility Management Plan and a permit for their manure utilization areas.

15. All persons who accept manure from a producer, ~~regardless of whether the land is included in the waste management plan~~ in quantities less than 12 tons per recipient per year, are responsible for land applying the manure in accordance with ~~these~~ this requirements and must have a signed agreement with the producer explaining their responsibility to comply with the regulation. The Department may require the person(s) land applying the manure to correct any problems that result from the application of manure.

16. Animal manure shall not be applied to cropland more than thirty (30) calendar days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

17. ~~When the Department receives nuisance complaints on a land application site, the Department may restrict land application of animal manure on weekends.~~ If the Department receives complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

18. The Department may require manure, ~~spread on cropland,~~ to be disked in immediately.

19. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours, unless otherwise approved by the Department in an emergency situation.

20. Manure shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

21. If the manure is stockpiled ~~more than three (3) days~~ outside, the manure shall be stored on a concrete pad or other approved pad (such as plastic or clay lined) and covered with an acceptable cover to prevent

odors, vector attraction, and runoff on a daily basis (unless otherwise specified in the permit). The cover should be properly vented with screen wire to let the gases escape. The edges of the cover should be properly anchored.

22. ~~If a P~~roducers who contracts to transfer the animal manure and other animal by-products produced at their facility ~~a manure broker shall obtain and submit for approval an updated Animal Facility Management Plan if they discontinue using the designated broker or if the manure broker goes out of the manure brokering business changes brokers/land appliers, he or she must submit notification and a new broker/land applier contract for approval to the Department.~~

23. The body of vehicles transporting manure shall be wholly enclosed and, while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.

#### C. Setbacks for manure utilization areas.

1. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure may be applied up to the property line. The 300-foot setback is waived with the consent of the owner of the residence. If the application method is injection or immediate incorporation, manure may be applied up to the property line. The setbacks are imposed at the time of application. The Department may impose these setbacks on previously approved sites to address problems on a case-by-case basis.

2. The minimum separation distance ~~in feet~~ required between a manure utilization area and Waters of the State (including ephemeral and intermittent streams) located down slope from the area is 100 feet when spray application is the application method or when the manure is spread on the ground surface, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

3. The minimum separation distance ~~in feet~~ required between a manure utilization area and ditches and swales, located down slope from the area, that discharge to Waters of the State including ephemeral and intermittent streams is 50 feet.

4. The minimum separation distance ~~in feet~~ required between a manure utilization area and a potable drinking water well is ~~100~~200 feet.

5. The Department may establish, in permits, additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be animal manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, aquifer vulnerability, and potential for vectors and odors.

6. Water (pond) that is completely surrounded by land owned by the applicant and has no connection to surface water is excluded from the setback requirements outlined in this part.

D. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface Waters of the State (including ephemeral and intermittent streams). Criteria may include, but is not limited to, soil permeability, clay content, depth

to bedrock, rock outcroppings, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and depth to the seasonal high groundwater table.

E. The Department may establish permit conditions to require that animal manure and other animal by-products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on Southeastern land grant universities' ~~(in the southeast)~~ published lime and fertilizer recommendations (such as the Lime and Fertilizer Recommendations, Clemson Extension Services, ~~Circular 476~~).

F. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring, for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include groundwater depth, operation flexibility, application frequency, type of animal manure and other animal by-products, size of manure utilization area, aquifer vulnerability, and proximity to a State Approved Source Water Protection Area, and loading rate.

1. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

2. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the animal manure and other animal by-products applications based on the results of this monitoring data.

3. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

G. The Department may require manure to be treated for odor control (i.e., composting or lime stabilizing for dry operations) prior to land application if the manure is not incorporated into the soil at the time of land application or if odors exist or are suspected to exist at an undesirable level. Manure, which has a very undesirable level of odor before treatment, such as turkey manure, shall not normally be permitted to be land applied on land near residences without appropriate treatment for odor control.

#### **200.110. Spray Application System Requirements.**

A. Spray application of liquid animal manure using irrigation equipment. This includes all methods of surface spray application, including, but not limited to, fixed gun application, traveling or mobile gun application, or center pivot application.

B. Manure utilization area slopes shall not exceed ten percent (10%) ~~percent~~ unless approved by the Department. The Department may require that slopes be less than ten percent (10%) based on site conditions.

C. Animal manure distribution systems shall be designed so that the distribution pattern optimizes uniform application.

D. Hydraulic Application Rates.

1. Application rates shall normally be based on the agronomic rate for the crop to be grown at the manure utilization area. As determined by soil conditions, the hydraulic application rate may be reduced below the agronomic rate to ensure no surface ponding, runoff, or excessive nutrient migration to the groundwater occurs.

2. The hydraulic application rate may be limited based on constituent loading including any constituent required for monitoring under this regulation.

E. Animal manure and other animal by-products shall not be ~~land-applied or discharged onto a land surface~~ when the vertical separation between the ground surface and the seasonal high water table is less than 1.5 feet at the time of application, unless approved by the Department on a case-by-case basis. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with ~~Departmental~~ Departmental concurrence.

F. Conservation measures, such as terracing, strip cropping, etc., may be required in specific areas determined by the Department as necessary to prevent potential surface runoff from entering or leaving the manure utilization areas. The Department may consider alternate methods of runoff controls that may be proposed by the applicant, such as berms.

G. For an animal facility, ~~A~~ a system for monitoring the quality of groundwater may also be required for the proposed manure utilization areas. The location of all the monitoring wells shall be approved by the Department. The number of wells, constituents to be monitored, and the frequency of monitoring shall be determined on a case-by-case basis based upon the site conditions such as type of soils, depth of water table, aquifer vulnerability, proximity to State Approved Source Water Protection Area, etc.

H. If an adverse trend in groundwater quality is identified, further assessment and/or corrective action may be required. This may include an alteration to the permitted application rate or a cessation of manure application on the impacted area.

I. Spray application systems should be designed and operated in such a manner to prevent drift of liquid manure onto adjacent property.

#### **200.120. Frequency of Monitoring for Animal Manure.**

A. The producer and/or integrator shall be responsible for having representative samples, based on Clemson Extension Service recommendations, of the animal manure collected and analyzed at least once per year and/or when the feed composition significantly changes. The constituents to be monitored shall be given in the permit. The analyses should be used to determine the amount of animal manure to be land applied. In order to ensure that the permitted application rate (normally the agronomic rate) is met, the application amount shall be determined using a rolling average of the previous analyses. The Department shall establish minimum requirements for the proper method of sampling and analyzing of animal manure. Facilities with permits that do not specify which constituents to monitor shall monitor for Ammonium-Nitrogen, Total Kjeldahl Nitrogen (TKN), Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen), P<sub>2</sub>O<sub>5</sub>, and K<sub>2</sub>O.

B. The Department may require nitrogen, potassium, phosphorus, the constituents listed in Table 1 and Table 2 of Section 200.100, and any other constituent contained in a permit to be monitored prior to each application.

C. Permittees do not have to analyze for any constituent that they can demonstrate to the satisfaction of the Department is not present in their animal manure.

D. All monitoring shall be done in accordance with collection procedures in Standard Methods for Analysis of Water and Wastewater or other Department guidelines. Analysis shall be conducted by Clemson



University Extension Service, or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

### **200.130. Dead Animal Disposal Requirements.**

A. Dead animal disposal shall be done as specified in the approved Animal Facility Management Plan. The Dead Animal Disposal Plan should include the following:

1. Primary Method for the handling and disposal of normal mortality at the facility.

2. Alternate Method for the handling and disposal of excessive mortality ~~on the farm at the facility~~. The normal method of disposal may not be sufficient to handle an excessive mortality situation. Each producer ~~should~~ shall have ~~an~~ a Department-approved emergency or alternate method to dispose of excessive mortality. Excessive mortality burial sites shall be preapproved by the Department prior to utilization.

#### B. Burial.

1. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

2. Burial pits shall not be located in the 100-year floodplain.

3. Soil type shall be evaluated for leaching potential.

4. Burial pits shall not be located or utilized on sites that are in areas that may adversely impact surface or groundwater quality or further impact impaired water bodies.

5. The bottom of the burial pit may not be within 2 feet of the seasonal high groundwater ~~level~~ table.

6. No burial site shall be allowed to flood with surface water.

7. Animals placed in a burial site shall be covered daily with sufficient cover (6 inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site should be properly capped (minimum 2 feet) and grassed to prohibit erosion.

9. Proposed burial pit sites shall be approved by the Department. The Department may conduct a geologic review of the proposed site prior to approval.

10. The Department may require ~~the~~ any new or existing producer to utilize another method of dead animal disposal if burial is not managed according to the Dead Animal Disposal Plan or repeated violations of these burial requirements occur or adverse impact to surface or groundwater is determined to exist.

11. The Department may require groundwater monitoring for dead animal burial pits on a case-by-case basis. The Department shall consider all of the facts including, but not limited to, the following: depth to the seasonal high water table; aquifer vulnerability; proximity to a State Approved Source Water Protection Area; groundwater use in the area; distance to adjacent surface waters; number of dead animals buried; and frequency of burial in the area.

#### C. Incinerators.

1. For animal facilities proposing an incinerator for dead animal disposal, either a permit for the air emissions shall be obtained from the Department's Bureau of Air Quality before the incinerator can be built or the following criteria shall be met in order to qualify for an exemption from an air permit:

a. The emission of particulate matter shall be less than ~~one~~ 1 pound per hour at the maximum rated capacity;

b. The incinerator shall be a package incinerator ~~and have a rated capacity of 500 pounds per hour or smaller which burns virgin fuel only~~ that meets the requirements from the Department's Bureau of Air Quality; and

c. The incinerator shall not exceed an opacity limit of ten percent (10%).

2. Incinerators used for dead animal disposal shall be properly operated and maintained. Operation shall be as specified in the owner's manual provided with the incinerator. The owner's manual shall be kept on site and made available to Department personnel upon request.

3. The use of the incinerator to dispose of waste oil, hazardous, or any other waste chemical is prohibited. The use of the incinerator shall be limited to dead animal disposal only unless otherwise approved by the Department's Bureau of Air Quality.

D. Composters. Composters used for dead animal disposal shall be designed by a professional engineer or an NRCS representative and operated in accordance with the approved Animal Facility Management Plan. Packaged composters shall be approved on a case-by-case basis.

E. Disposal of dead animals in a municipal solid waste landfill shall be in accordance with ~~Regulation R.61-107.25819.~~

F. Disposal of animal carcasses or body parts into manure lagoons, ~~manure~~-treatment systems, ~~manure~~ storage ponds, ~~w~~Waters of the State, ephemeral and intermittent streams, ditches, and swales is prohibited.

G. Disposal of animal carcasses or body parts by rendering shall be approved by the Department and include a signed contract with the rendering company.

~~G~~H. Other methods of dead animal disposal that are not addressed in this regulation may be proposed in the Dead Animal Disposal Plan.

#### **200.140. Other Requirements.**

A. There shall be no discharge of pollutants from the operation into surface Waters of the State (including ephemeral and intermittent streams). There shall be no discharge of pollutants into groundwater, which could cause groundwater quality not to comply with the groundwater standards established in ~~South Carolina~~ Regulation R.61-68.

B. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of animal manure and other animal by-products.

C. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a state-approved source water protection area.

2. 303(d) Impaired Water Bodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or potential to adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area, an area where groundwater recharge may affect an aquifer.

D. If an adverse impact to the Waters of the State, (including ephemeral and intermittent streams or groundwater), from animal manure and other animal by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation R.61-68,~~ or a significant adverse trend occurs, the Department may require the producer responsible for the animal manure and other animal by-products to conduct an investigation to determine the extent of impact. The Department may require the producer to remediate the water to within acceptable levels as set forth in ~~Regulation R.61-68.~~

E. No manure may be released from the premises of an animal facility to Waters of the State, (including ephemeral and intermittent streams) ~~unless a permit pursuant to Section 402 or 404 of the CWA has been issued by the Department.~~

F. Animal medical waste cannot be disposed into animal lagoons, treatment systems, or manure storage ponds, or land applied with animal manure and other animal by-products.

G. In the event of a discharge from an animal facility or an animal lagoon, treatment system, or manure storage pond, the ~~owner or operator~~ permittee is required to notify the Department immediately, within twenty-four (24) hours of the discharge.

H. When the Department determines that a nuisance exists at an animal facility, the permittee shall take action to correct the nuisance to the degree and within the time frame designated by the Department.

I. Permittees shall maintain all-weather access roads to their facilities at all times.

~~J. The body of vehicles transporting manure shall be wholly enclosed and while in transit, be kept covered with a canvas cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the manure, the owner/operator shall take immediate steps to clean up the manure.~~

#### **200.150. Odor Control Requirements.**

A. The Animal Facility Management Plan shall contain an odor abatement plan for the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas, which ~~may~~ shall consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;

2. Use of treatment processes for the reduction of undesirable odor levels;

~~3. Additional setbacks from property lines beyond the minimum setbacks given in this part;~~

~~43. Other methods as may be appropriate; or~~

~~54. Any combination of these methods.~~

B. Producers shall utilize Best Management Practices normally associated with the proper operation and maintenance of an animal facility, lagoon, treatment system, manure storage pond, and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No producer may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is at an undesirable level.

~~D. After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. If the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to, the following:~~

~~E. The Department may require these abatement or control practices, including, but not limited to the following:~~

1. Remove or dispose of odorous materials;

2. Methods in handling and storage of odorous materials that minimize emissions;

a. Dry manure to a moisture content of fifty percent (50%) or less;

b. Solids separation from liquid manure, and composting of solids;

~~bc.~~ Disinfection to kill microorganisms present in manure;

~~ed.~~ Aeration manure;

~~ee.~~ Composting of solid manure and other animal by-products; and/or

~~ef.~~ Odor Control Additives.

3. Prescribed standards in the maintenance of premises to reduce odorous emissions;

a. Filtration (biofilters or other filter used to remove dust and odor) of ventilation air;

b. Keep animals clean ~~or~~ and separate from manure;

c. Adjust number of animals confined in the pens or paddocks in accordance with Clemson University Animal Space Guidelines.

~~d. Increase the~~ Frequency t manure removal from animal houses;

- e. ~~Keep~~ Feeding areas should be kept dry, and minimize waste feed accumulation;
- f. Maintaining feedlot surfaces in a dry condition (twenty-five to forty percent (25% to 40%) moisture content), with effective dust control;
- g. ~~Maintain~~ Proper maintenance of the dead animal disposal system;
- h. Covering or reducing the surface area of manure and other animal by-products storage. (Vents shall be provided for the release of pressure created by manure gases if completely sealed covers are used);
- i. ~~Plant trees around or downwind of the manure and other animal by-products storage and treatment facilities;~~ Planting trees around or downwind of the manure and other animal by-products storage and treatment facilities (Trees shall not be planted within 25 feet of the toe of the dike.);
- j. Incorporate ion of manure and other animal by-products immediately after land application; and/or
- k. Selection of appropriate times for land application.

4. Best Available Technology to reduce odorous emissions.

E. Nothing in this section prohibits an individual or group of persons from bringing a complaint against a facility including problems at lagoons, treatment systems, manure storage ponds, and manure utilization areas.

F. If the permittee fails to control or abate the odor problems at ~~a land application site~~ an animal facility, lagoon, treatment system, manure storage pond, and any manure utilization area to the satisfaction and within a time frame determined by the Department, the permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the Animal Facility Management Plan, if necessary, to provide a sufficient amount of land for manure utilization.

**200.160. Vector Control Requirements.**

~~A. Vector Abatement Plan.~~ The Vector Abatement Plan shall, at a minimum, consist of the following:

1. ~~Normal~~ Best management practices used at the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.

2. A list of specific actions to be taken by the producer if vectors are identified as a problem at the animal facility, lagoon, treatment system, manure storage pond, or any manure utilization area. These actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.

B. No producer and or land applier may cause, allow, or permit vectors to breed or accumulate in quantities that result in a nuisance level, as determined by the Department.

~~C. The Department shall require remediation of the problem to the satisfaction of the Department, after determining a vector problem exists.~~ For an existing facility, if the Department determines a vector problem

exists, the Department may require these abatement of control practices, including, but not limited to, the following:

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;
2. Methods in handling and storage of materials that minimize vector attraction;
  - a. Remove spilled or spoiled feed from the house as soon as practicably possible not to exceed forty-eight (48) hours, unless otherwise approved by the Department;
  - b. Remove and properly dispose of dead animals as soon as practicably possible not to exceed twenty-four (24) hours, unless otherwise approved by the Department;
  - c. Increase the frequency of manure removal from animal houses;
  - d. Prevent solids buildup in the pit storage or on the floors or walkways;
  - e. Remove excess manure packs along walls and curtains;
  - f. Compost solid manure and other animal by-products;
  - g. Appropriately use vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);
  - h. Utilize traps, or electrically charged devices;
  - i. Utilize biological agents;
  - j. Utilize Integrated Pest Management;
  - k. Incorporate manure and other animal by-products immediately (within twenty-four (24) hours) after land application-; and/or
    1. Contact Clemson Extension Service for appropriate measures to control a vector problem.
3. Prescribed standards in the maintenance of premises to reduce vector attraction;
  - a. Remove any-standing water that may be a breeding area for vectors;
  - b. Keep animals clean or separated from manure;
  - c. Keep facility clean and free from trash or debris;
  - d. Properly utilize and service bait stations;
  - e. Keep feeding areas dry, and minimize waste feed accumulation;
  - f. Keep grass and weeds mowed around the facility and manure storage or treatment areas;

- g. Properly maintain the dead animal disposal system;
  - h. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
  - i. Properly store feed and feed supplements;
  - j. Conduct a weekly vector monitoring program;
  - k. Be aware of insecticide resistance problems, and rotate use of different insecticides;
  - l. Prevent and repair leaks in waterers, water troughs, or cups; and/or
  - m. ~~Provide~~Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.
4. Utilize the best available control technology to reduce vector attraction and breeding.

**200.170. Record Keeping.**

A. A copy of the approved Animal Facility Management Plan, including approved updates, and a copy of the permit(s) issued to the producer shall be retained by the permittee for as long as the animal facility is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. However, if the facility was permitted prior to June 26, 1998, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.

C. Records shall be developed for each manure utilization area. These records shall be kept for eight (8) years. The records shall include the following:

- 1. For each time animal manure and other animal by-products are applied to the site, the amount of animal manure and other animal by-products applied (in gallons per acre or pounds per acre, as appropriate), the date and time of application, and the location of application;
- 2. All sampling results for animal manure that is land applied;
- 3. All soil monitoring results;
- 4. All groundwater monitoring results, if applicable; and
- 5. Crops grown.

D. Records for the facility to include the following on a monthly basis:

- 1. ~~Monthly a~~Animal count and the normal production animal live weight; and
- 2. Mortality count and method of disposal.

E. Records for lagoon, treatment system, or manure storage pond operations to include the following:

1. Monthly water levels of the lagoon, treatment system, and manure storage pond; and
2. ~~All~~ Groundwater monitoring results, if applicable.

F. All records retained by the producer shall be kept at either the facility, an appropriate business office, or other location as approved by the Department.

G. All records retained by the producer shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

### **200.180. Reporting.**

A. Large and X-large animal facilities (~~greater than 500,000 pounds normal production live weight~~) are required to submit an annual report, on a form approved by the Department. The Department may establish reporting requirements in permits as it deems appropriate. These reporting requirements may include the following:

1. All manure sampling results for the last year and the latest rolling average concentration for the land limiting constituent;
2. All soil monitoring results, if applicable;
3. All groundwater monitoring results, if applicable;
4. Calculated (~~permitted application rate~~) application rates for all manure utilization areas; and
5. The adjusted application rates, if applicable, based on the most recent animal manure sampling, soil samples, and crop yield(s). The application rate change could also be due to a change in field use, crop grown, or other factors.

B. The Department may require small animal facilities (~~500,000 pounds or less of normal production live weight~~) to submit annual reports on a case-by-case basis.

C. The Department may establish permit conditions to require a facility to complete and submit a comprehensive report every five (5) years. The Department shall review this report to confirm that the permitted nutrient application rates have not been exceeded. Based on the results of the review, additional soil and/or groundwater monitoring requirements, permit modification, and/or corrective action may be required.

### **200.190. Training Requirements.**

A. An owner/operator of an animal facility or manure utilization area shall attend a training program on the operation of animal manure management under the program created and operated by Clemson University.

B. Owners/Operators of new and existing animal facilities ~~and large animal facilities (greater than 500,000 pounds normal production live weight)~~ shall be required to obtain certification under the program created and operated by Clemson University. ~~The Department may also require existing operators with documented violations to obtain certification under Clemson's program.~~



C. The ~~training and~~ certification program shall be completed by owners/operators of new facilities within one (1) year of the effective date of the issued permit.

D. The ~~training and/or~~ certification program shall be completed by owners/operators of existing facilities within ~~two years~~ one (1) year of the effective date of this regulation.

E. ~~Training and/or~~ eCertification shall be maintained as long as the facility remains in operation. All facilities must have a CAMM certified operator at all times.

F. Failure to obtain the ~~training and/or~~ certification as provided in this Section shall be deemed a violation of this regulation and the permit may be revoked.

G. An owner/operator of a cattle stockyard shall be exempt from attending the training program on the operation of animal manure management under the program created and operated by Clemson University (CAMM).

### **200.200. Violations.**

A. Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

B. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Department to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to Sections 48-1-320 and 48-1-330 of the S.C. Code of Regulations.

## **PART 300 INNOVATIVE AND ALTERNATIVE TECHNOLOGIES.**

~~300.10. General~~

~~300.20. Submittal Requirements.~~

~~300.30. Requirements in Lieu of Requirements Under Part 100 and Part 200 of This Regulation.~~

~~300.40. Innovative and Alternative Treatment for Technologies.~~

~~300.50. Exceptional Quality Compost.~~

~~300.60. Public Notice Requirements.~~

### **300.10. General.**

A. The Department supports and encourages the use of appropriate innovative and alternative technologies.

B. When innovative or alternative technology is proposed for an agricultural facility for manure and other animal by-products handling, treatment, storage, processing, or utilization, a meeting should be held with the Department prior to the submittal of the project. The purpose of the meeting is for the applicant and the Department to go over the proposed project and the purpose and expected benefits from the use of the innovative or alternative technology.

### **300.20. Submittal Requirements.**

A. When innovative or alternative technology is proposed for an agricultural facility for manure and other animal by-products handling, storage, treatment, processing, or utilization, the applicant shall provide to the Department the submittal information contained in Sections 100.50 or 200.50, as appropriate, and a detailed project report which explains the innovative or alternative technology and the purpose and expected benefits of the proposal.

### **300.30. Requirements in Lieu of Requirements Under Part 100 or Part 200 of This Regulation.**

A. When the Department determines that appropriate alternative or innovative technology is being proposed, the specific requirements given in Part 100 and 200 of this regulation, which deal with the purpose or expected benefits of the technology, may not have to be met except when required by a specific statute or the Department after review of the project. Requirements in Part 100 that apply to X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall not be reduced or waived.

B. The Department shall review the project and determine the purpose or benefits of the proposed innovative or alternative technology and determine which requirements under Part 100 or 200 do not have to be met and the appropriate requirements to be used in lieu of the requirements in Part 100 or 200.

C. When an alternative or innovative technology is proposed, the review criteria shall be established on a case-by-case basis by the Department when the project is received.

D. When alternative or innovative technology is utilized at an animal facility, the setbacks given in Part 100 or 200 may be reduced by the Department as appropriate. Requirements in Part 100 that apply to large or X-large swine facilities ~~with 1,000,000 pounds or more normal production live weight~~ shall not be reduced or waived.

### **300.40. Innovative and Alternative Treatment Technologies.**

A. The following is a list of innovative or alternative technologies for agricultural facilities to consider. This list is not exhaustive. Other processes exist and new technologies are being developed.

1. Aerobic treatment systems or combination aerobic/anaerobic systems;
2. Artificial (constructed) wetlands use for treatment;
3. Use of steel tanks;
4. Use of solid separators;
5. Methane Gas Recovery Systems;
- ~~6. Surface Water Discharge Systems;~~
- ~~7.6.~~ Composting manure solids;
- ~~8.7.~~ Bioreactors;
- ~~9.8.~~ Covered liquid or slurry manure storage;
- ~~10.9.~~ Air Scrubbers;

~~11.10.~~ Ozonation; and

~~12.11.~~ Alternative Fuels.

B. At a minimum, the preparer of the agricultural Animal Facility Management Plan should consider the technologies given in 300.40.A for use at a proposed agricultural facility when the Animal Facility Management Plan is being developed.

C. When odors exist or are reasonably expected to exist at an undesirable level, the Department may require the use of appropriate innovative or alternative treatment technology to eliminate the odors or the potential for odors.

D. When the Department determines under Section 100.70.G. (Permit Decision Making Process) that there is reasonable potential for cumulative or secondary impacts due to methane gas from facilities, the Department may require the use of methane gas recovery systems or other appropriate technology to eliminate the potential impacts.

### **300.50. Exceptional Quality Compost.**

A. When the Department determines that the composting of solid animal manure and other animal by-products is performed in such a manner that the odor and vector attraction potential is reduced and the controlled microbial degradation of the organic manure and other animal by-products has been accomplished, this material may be considered Exceptional Quality Compost. Exceptional Quality Compost may be sold or distributed without regulation by the Department, if it meets the requirements of this part and the standards established by Penn State University. The Department shall review and approve the compost design and proposal for operation and distribution of the composted product. Composting systems shall be designed by a professional engineer or an engineer with the Natural Resources Conservation Service.

B. Composting can be subject to nuisance problems such as odors, dusts, and vector attraction. Therefore, the composting facility shall incorporate measures to control such conditions. An Odor and Vector Abatement Plan shall be developed for a composting facility.

C. Compost Product Quality Standards.

1. Product Standards are necessary to protect public and environmental health and to ensure a measure of commercial acceptability.

a. Based on EPA standards for pathogen reduction, the time/temperature conditions required are equivalent to an average of 128 degrees Fahrenheit (°F) (53 degrees Celsius (°C)) for five (5) consecutive days, 131°F (55°C) for 2.6 consecutive days, or 158°F (70°C) for thirty (30) minutes.

b. The composted product shall meet or exceed the minimum standard of mature or very mature compost as set forth in the USDA Test Methods for the Examination of Composting and Compost (TMECC) Section 05.02-G CQCC Maturity Index. A maturity rating shall be given based upon the Maturity Assessment Matrix given in this method.

c. When land applied, the compost shall adhere to requirements for constituent concentrations and loading rates as outlined in Part 100.100, Part 200.100, or Part 400.60.

2. Compost products which meet these standards and also comply with pathogen quality and vector attraction standards are considered to be of ~~e~~Exceptional ~~q~~Quality and can be used without regulatory oversight, other than the compliance of agronomic application rates based on product analysis.

3. If the Department determines that the composting system is not being operated properly or that the composted product is not of an Exceptional Quality, the composted product shall be handled in accordance with the land application requirements of Part 100, 200, or 400 (as applicable) of ~~these~~this regulations.

4. An operable thermometer capable of measuring temperatures within a compost pile shall be kept at the composting facility for monitoring the temperature of each compost pile or batch. A written log of the daily temperature reading should be kept for each batch of compost. Temperatures shall not be allowed to rise above 180°F (82°C), which may cause combustion in the compost pile and start a fire.

5. The composted product shall be analyzed by Clemson University or another Department approved laboratory. The composted product content information along with recommended application rates shall be distributed with the product. The consumer shall be advised that the composted product shall be applied at an agronomic rate.

### **300.60. Public Notice Requirements.**

~~A.~~ When the Department permits an alternative or innovative technology, the notice on the issuance of the permit required under Sections 100.60.H. or 200.60.H. shall contain a general description of the innovative or alternative process and a summary of the expected benefits.

## **PART 400 MANURE BROKER/LAND APPLIER OPERATIONS.**

- ~~400.10 Purpose and Applicability.~~
- ~~400.20. Permits and Compliance Period.~~
- ~~400.30. Relationship to Other Regulations.~~
- ~~400.40. Permit Application Procedures (Broker Management Plan Submission Requirements).~~
- ~~400.50. Permit Decision Making Process.~~
- ~~400.60. Manure Utilization Area Requirements.~~
- ~~400.70. Other Requirements.~~
- ~~400.80. Odor Control Requirements.~~
- ~~400.90. Vector Control Requirements.~~
- ~~400.100. Record Keeping.~~
- ~~400.110. Reporting.~~
- ~~400.120. Training Requirements.~~
- ~~400.130. Violations.~~

### **400.10. Purpose and Applicability.**

#### **A. Purpose.**

1. To protect the environment and the health and welfare of citizens of the State from pollutants generated by the processing, treatment, and land application of dry animal manure and other animal by-products.

2. To establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the use of dry animal manure and other animal by-products

generated at animal facilities. Standards are included in this part for dry animal manure and other animal by-products applied to the land.

3. To establish standards for the frequency of monitoring and record keeping requirements for brokers/land appliers who operate dry animal manure and other animal by-products handling businesses.

4. To establish standards for the proper operation and maintenance of dry animal manure and other animal by-products treatment and storage facilities associated with manure brokering/land applying operations.

5. To establish criteria for dry animal manure and other animal by-products storage facilities' and manure utilization areas' locations as they relate to protection of the environment and public health. The location of dry animal manure and other animal by-products storage facilities and manure utilization areas as they relate to zoning in an area, is not covered in this regulation. Local county or municipal governments may have zoning requirements and ~~these~~this regulations neither interferes with nor restricts such zoning requirements. Permit applicants should contact local municipal and county authorities to determine any local requirements that may be applicable.

#### B. Applicability.

1. This part applies to:

- a. All new and ~~expanding~~renewing dry manure brokering/land applying operations;
- b. All dry animal manure and other animal by-products treatment or storage facilities operated by brokers/land appliers; and
- c. Permanent manure utilization areas added to a manure broker/land applier management plan.

2. This part applies to all dry animal manure and other animal by-products taken, bought, given, handled, or sold by a manure broker.

3. This part applies to all land where dry animal manure and other animal by-products bought, given, taken, handled, or sold by a manure broker/land applier is applied.

4. This part applies to out-of-state and in-state based manure brokers/land appliers who accept manure and other animal by-products from agricultural animal facilities located in the State.

5. This part applies to all manure brokers/land appliers who bring animal manure and other animal by-products from other states into ~~the state of~~ South Carolina.

6. Part 200.80.C. (Dry Animal manure and other animal by-products Treatment and Storage Facility Siting Requirements) of this regulation applies to dry animal manure and other animal by-products treatment or storage facilities proposed by brokers/land appliers.

7. If a manure broker/land applier proposes to handle, process, treat, or store liquid animal manure as a part of the operation, the requirements of this part shall be met, at a minimum. However, the Department may require that the applicant meet additional requirements applicable to liquid manure that are included in Part 100 and Part 200.

~~8. Existing brokers that hold a valid permit from the Department are deemed permitted under this regulation, and do not need to apply for a new permit. The deemed permitted brokers shall meet all the requirements of this part.~~

#### **400.20. Permits and Compliance Period.**

A. Permit Requirement. Animal manure and other animal by-products from an animal facility with dry manure handling can only be handled, stored, treated, processed, or land applied in the State in accordance with a permit issued by the Department. The handling, storage, treatment, and final utilization of animal manure and other animal by-products from a manure broker/land applier operation shall be permitted under the provisions of this part before the broker/land applier can operate in the State.

B. Notification Requirements. The permittee shall notify the Department in writing and receive written Departmental approval, prior to any change in operational procedures in a permitted broker/land applier operation, including, but not limited to, the following:

1. Change in operations or in manure and other animal by-products treatment, storage, handling, or utilization;
2. Change in contracts routinely used in manure and other animal by-products transfers; or
3. Termination of operations.

#### **400.30. Relationship to Other Regulations.**

The following regulations are referenced throughout this part and may apply to facilities covered under this regulation.

~~A. Nuisances are addressed in Regulation 61-46.~~

~~BA.~~ Application and annual operating fees are addressed in Regulation R.61-30, Environmental Protection Fees.

~~CB.~~ The proper closeouts of wastewater treatment facilities are addressed in Regulation R.61-82, Proper Closeout of Wastewater Treatment Facilities. This regulation includes animal manure treatment lagoons and manure storage ponds.

~~D. Permitting requirements for concentrated animal feeding operations as defined by Regulation 61-9 are contained in Regulation 61-9.~~

~~EC.~~ Setbacks and construction specifications for potable water wells and ~~M~~monitoring wells shall be in accordance with Regulation R.61-71, Well Standards.

~~FD.~~ Permits for air emissions from incinerators are contained in Regulation R.61-62, Air Pollution Control Regulations and Standards.

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in Regulation R.61-107.25819, Solid Waste Management: Solid Waste Landfills and Structural Fill.

~~HF.~~ Disposal of animal manure with domestic or industrial sludge is addressed in Regulation R.61-9, Water Pollution Control Permits, and permitted under R.61-9.

~~I. Procedures for contested cases are addressed in Regulation 61-72 and the Rules of the State's Administrative Law Judge Division.~~

~~J.G. Laboratory Certification is addressed in Regulation R.61-81, State Environmental Laboratory Certification Program.~~

~~K.H. Water Classifications and Standards are addressed in Regulation R.61-68.~~

#### **400.40. Permit Application Procedures (Broker/Land Applier Management Plan Submission Requirements).**

A. A ~~broker~~ person who proposes to operate as a ~~dry animal manure brokering operation or expand an existing operation~~ broker/land applier shall ~~make submit an~~ application for a permit under this part ~~using an application form as designated by the Department.~~ The following information shall be included in the application package.

1. A completed application form provided by the Department.

2. A Broker/Land Applier Management Plan prepared by qualified Natural Resources Conservation Service personnel, an S.C. registered professional engineer, or other qualified individuals, such as certified soil scientists or S.C. registered professional geologists. The Broker/Land Applier Comprehensive Nutrient Management Plan shall, at a minimum, contain:

a. Brokering/land applying ~~Operation~~ name, address, email, telephone number, county, and permit number (if applicable) and CAMM number (or if applicable, date of CAMM class);

b. Applicant's name, address, email, and telephone number (if different from above);

c. Broker's/land applier's name;

d. Dry Animal manure and other animal by-products Storage or Treatment Facility Information (if applicable):

i. Description of animal manure and other animal by-products storage and storage capacity;

ii. Description of animal manure and other animal by-products treatment (if any);

iii. Facility location description and the zoning or land use restrictions in this area (this information should be obtained from the county). ~~Facility shall meet the siting requirements outlined in Section 200.80.C of this regulation;~~ The minimum separation distance required between a dry animal manure and other animal by-products treatment or storage facility operated by a manure broker/land applier and the lot line of real property owned by another person is 200 feet and 1,000 feet to the nearest residence. However, the Department shall evaluate each proposed site to consider increasing distances, when the amount of manure stored, treated, or processed at this facility is significant.

e. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A ~~general~~ crop management plan which includes the optimum time of year of the animal manure and other animal by-products application and how it relates to crop type, crop planting, and harvesting

schedule (if applicable) ~~in general~~ for manure utilization areas in the State. This information should be used as a guide in the absence of more accurate information. The Plan Preparer may need to include this information for the different regional areas of ~~the~~ State, as necessary, to provide the broker/land applier with ~~general~~ crop information for the entire State;

ii. Type of equipment used to transport and/or spread the animal manure and other animal by-products ~~(if applicable)~~;

iii. Description of services provided by the broker/land applier (clean-out houses, transport manure and other animal by-products, drop-off only, land application, incorporation of manure and other animal by-products into field, stacking or storing manure and other animal by-products, manure and other animal by-products treatment, etc.);

iv. Example of the contract or letter of intent to buy or accept animal manure and other animal by-products between the broker/land applier and the producer who is supplying the animal manure and other animal by-products; and

v. Example of the manure transfer contract to be used for the transfer of animal manure and other animal by-products between the broker and the person(s) who is accepting or purchasing the animal manure and other animal by-products. The Department has developed a Manure transfer contract that can be used or the broker may develop his own contract as long as it contains the minimum information outlined in part 400.60.B.12.

3. The Broker/Land Applier Management Plan shall contain an odor abatement plan for the dry animal manure and other animal by-products storage or treatment facility or manure utilization areas, as appropriate.

4. A Vector Abatement Plan shall be developed for the dry animal manure and other animal by-products storage or treatment facility or land application areas, (if applicable).

5. ~~Soil Monitoring Plan.~~ A soil monitoring plan shall be developed for all broker/land applier operations.

6. Plans and specifications for the construction and operation of all manure and other animal by-products treatment or storage structures, such as composters or manure storage sheds that are to be owned and operated by the brokering/land applying operation.

7. Adjoining property owners written agreement for reduction of setbacks for any manure storage and/or treatment facilities (if applicable).

8. Application fee and first year's operating fee as established by ~~Regulation~~ R.61-30.

B. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the broker/land applier operation permit application prior to processing the application or issuing, modifying, or denying a permit.

C. Applicants shall submit all required information in a format acceptable to the Department.

D. Incomplete submittal packages ~~may~~ shall be returned to the applicant by the Department. An application package for a permit is complete when the Department receives all of the required information; ~~which has been completed to its satisfaction.~~



E. Application packages for permit modifications only need to contain the information applicable to the requested modification.

#### **400.50. Permit Decision Making Process.**

A. No permit shall be issued before the Department receives a complete application for a permit.

B. After the Department has received a complete application package, a technical review shall be conducted by the Department. The Department may request any additional information or clarification from the applicant or the preparer of the Broker/Land Applier Management Plan to help with the determination on whether a permit should be issued or denied. If a permit application package meets all applicable requirements of this part, a permit may be issued.

C. A site inspection of any proposed sites for dry animal manure and other animal by-products storage or treatment facilities shall be made by the Department before a permit decision is made.

D. For permit issuances, the Department, ~~at the expense of the applicant,~~ shall publish a notice of issuance of a permit to operate a dry animal manure brokering operation on the Department's website in a local newspaper of general circulation in the area of the broker's base of operations.

E. For permit denials, the Department shall give the permit applicant a written explanation, which outlines the specific reason(s) for the permit denial.

~~F. The appeal of a permit decision is governed by the SC Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Judge Division.~~

~~GF.~~ When a permit is issued, it shall contain an issue date and an effective date. The effective date shall be at least ~~twenty (20)~~ fifteen (15) calendar days after the issue date to allow for any appeals. If a timely appeal is not received, the permit is effective.

~~HG.~~ Permits issued under this part for broker/land applier operations shall be renewed ~~at least~~ every five (5) years. However, subsequent to the issuance of a permit, if the broker/land applier operation is not in operation or production for two (2) consecutive years, the permit is no longer valid and a new permit shall be obtained. If the Broker/Land Applier does not apply for permit renewal or does not fulfill the requirements of the permit renewal, the permit is terminated. Should the broker/land applier allow his or her permit to expire and apply for a new permit within the two (2) years, the broker/land applier will be required to update the management plan before the permit is re-issued.

~~HH.~~ An expired broker/land applier operation permit which was issued under this part continues in effect until a new permit is effective only if the permittee submits a complete application, to the satisfaction of the Department, at least one hundred twenty (120) calendar days before the existing permit expires. The Department may grant permission to submit an application later than the deadline for submission stated above, but no later than the permit expiration date. If the facility has been closed for any two (2) consecutive years since the last permit was issued, the provision for the expiring permit remaining in effect does not apply since the permit is no longer valid. Permittees shall notify the Department in writing when they go out of business.

~~II.~~ At the time of the broker/land applier's renewal application, the Department shall review all the yearly Animal Waste Balance Reporting Form, for every year of the current permit. Broker operation records for permit renewal at the time of application. The Department may request additional

documentation based on the review of the Animal Waste Balance Reporting Form. The Department may require that broker/land applier is required to add routine application sites are added to the an updated broker management plan at the time of renewal. These manure utilization areas that are added to the broker management plan shall meet all the requirements for manure utilization areas included in Part 200 of these regulations.

~~KJ.~~ The brokering/land applying operation can only be built (if a manure storage or treatment facility was included) or operated when the permit is effective ~~with no appeals pending~~. The dry animal manure and other animal by-products treatment or storage facility cannot be placed into operation until the Department grants ~~written authorization to begin operations~~ an ATO.

~~LK.~~ For manure brokers/land appliers who do not have any constructed facilities associated with their operations, the Department shall issue a permit to operate with an effective date. Once this permit is effective, ~~with no appeals pending~~, the broker/land applier may begin operations. No additional written authorization approval from the Department shall be required.

~~ML.~~ For manure brokers/land appliers who are permitted to construct a storage or treatment facility associated with the brokering/land applying operation, authorization approval to begin operations shall be obtained prior to operation. To receive authorization approval to begin operations, the broker/land applier shall have the preparer of the Broker/Land Applier Management Plan submit to the Department written certification that the construction of the dry animal manure and other animal by-products treatment or storage facility has been completed in accordance with the approved Broker/Land Applier Management Plan and the requirements of this regulation.

~~NM.~~ The Department may shall conduct a final inspection of any dry animal manure and other animal by-products treatment or storage facilities before granting authorization approval to a broker/land applier to begin operations (if applicable).

~~ON.~~ The Department shall grant written authorization approval for the broker/land applier to begin operations of the dry animal manure and other animal by-products treatment or storage facility after it has received the certification statement in 400.50.M and the results of the final inspection, if conducted, are satisfactory.

#### **400.60. Manure Utilization Area Requirements.**

A. Application Rates. The Department shall approve a Broker/Land Applier Management Plan that establishes application rates based upon the limiting constituent (a nutrient or other constituent as given in item 400.60.B). The limiting constituent shall be Nitrogen, unless the soil test results exceed the limits for phosphorus. More information on maximum allowable constituent concentrations are outlined in item 400.60.B and item 400.60.C.

B. Constituent Limits for Land Application of Dry Animal manure and other animal by-products and Operational Practices for Land Application.

1. Dry animal manure and other animal by-products. When the animal manure analysis indicates there are high levels of arsenic, copper, zinc, or other constituent of concern, the producer shall comply with the following criteria:

a. Constituent Limits. If animal manure and other animal by-products subject to a constituent limit is applied to land, either:

i. The cumulative loading rate for each constituent shall not exceed the loading rate in Table 1 of Section 400.60; or

ii. The concentration of each constituent in the animal manure and other animal by-products shall not exceed the concentration in Table 2 of Section 400.60.

b. Constituent concentrations and loading rates - animal manure and other animal by-products.

i. Cumulative constituent loading rates.

TABLE 1 OF SECTION 400.60 - CUMULATIVE CONSTITUENT LOADING RATES			
Cumulative Constituent Loading Rate			
Constituent	(kilograms per hectare)	(pounds per acre)	
Arsenic	41	37	
Copper	1500	1339	
Zinc	2800	2499	

ii. Constituent concentrations.

TABLE 2 OF SECTION 400.60 - CONSTITUENT CONCENTRATIONS	
Monthly Average Concentrations	
Constituent	Dry weight basis (milligrams per kilogram)
Arsenic	41
Copper	1500
Zinc	2800

iii. Annual constituent loading rates.

TABLE 3 OF SECTION 400.60 - ANNUAL CONSTITUENT LOADING RATES			
Annual Constituent Loading Rate			
	(kilograms per hectare	(pounds per acre per	
Constituent	per 365-day period)	365-day period)	
Arsenic	2.0	1.8	
Copper	75	67	
Zinc	140	125	

c. Additional constituent limits may be required, from the application information or subsequent monitoring in a permit thereafter, but such needs shall be assessed on an individual project basis.

d. No person shall apply animal manure and other animal by-products to land if any of the loading rates in Table 1 of Section 400.60.B.1 have been reached.

e. No person shall apply animal manure and other animal by-products to land during a 365-day period after the annual application rate in Table 3 of Section 400.60.B.1 has been reached.

f. If animal manure and other animal by-products have not been applied to the site, the cumulative amount for each constituent listed in Table 2 of Section 400.60.B.1 may be applied to the site in accordance with Section 400.60.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

g. If animal manure and other animal by-products have been applied to the site and the cumulative amount of each constituent applied to the site in the animal manure and other animal by-products is known, the cumulative amount of each constituent applied to the site shall be used to determine the additional amount of each constituent that can be applied to the site in accordance with Section 400.60.B.1.a.i (cumulative loading rate shall not exceed the cumulative constituent loading rate).

h. Manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manures in combination with the fertilizer shall not exceed the agronomic rate of nutrient utilization of the intended crop(s).

2. Any person who land applies animal manure and other animal by-products shall ensure that the applicable requirements in this part are met when the animal manure and other animal by-products are applied to the land.

3. If the Department receives complaints on a land application site, the Department may restrict land application of animal manure on this site completely or during certain time periods.

C. Requirements for the land application of animal manure and other animal by-products.

~~1. Animal manure and other animal by products shall not be applied to land that is saturated from recent precipitation, flooded, frozen, or snow covered. Animal manure and other animal by products shall not be applied during inclement weather, or when a significant rain event is forecasted to occur within 48 hours. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure and other animal by-products should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours.~~

2. Animal manure and other animal by-products shall not be placed directly in groundwater.

3. Animal manure and other animal by-products shall not be applied to cropland more than thirty (30) calendar days before planting or during dormant periods for perennial species, unless otherwise approved by the Department in an emergency situation.

~~4. The land application equipment, when used once or more per year, shall be calibrated at least annually by the person who land applies animal manure; more frequent calibrations may be required in a permit to ensure that proper application rates are being attained. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use. The land application equipment, when used once or more per year, shall be calibrated at least annually by the applicator. A permit may require more frequent calibrations to ensure proper application rates. The two (2) most recent calibration records should be retained by the broker/land applier and made available for Department review upon request. If the land application equipment has not been used in over a year, the equipment shall be calibrated prior to use.~~

5. If the broker chooses to offer manure analysis as a service, the manure shall be analyzed at least once per year. If the broker does not perform manure analysis, the animal producer shall provide the broker with a copy of the most recent manure analysis. Dry animal manure information (as appropriate) shall be included as follows:

a. Dry animal manure shall be analyzed for the following:

i. Nutrients (on a dry weight basis).

(a) Total Kjeldahl Nitrogen (mg/kg).

(b) Total inorganic nitrogen (mg/kg).

(c) Total ammonia nitrogen (mg/kg) and Total nitrate, nitrogen (mg/kg).

(d) P<sub>2</sub>O<sub>5</sub> (mg/kg).

(e) K<sub>2</sub>O (mg/kg).

(f) Calcium Carbonate equivalency (if animal manure is alkaline stabilized).

ii. Constituents (on a dry weight basis).

(a) Arsenic (mg/kg).

(b) Copper (mg/kg).

(c) Zinc (mg/kg).

b. Name, address, email, and telephone number of the laboratory conducting the analyses.

c. Analysis shall be conducted by Clemson University Extension Service or a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

6. Permittees do not have to analyze for any constituent that they can demonstrate, to the satisfaction of the Department, is not present in their manure.

7. No person(s) accepting or purchasing manure or other animal by-products from a manure broker shall apply animal manure and other animal by-products to the land except in accordance with the requirements in this part. The broker shall inform the recipient of their responsibility to properly manage the land application of manure to prevent discharge of pollutants to Waters of the State (including ephemeral and intermittent streams) and ditches that lead to Waters of the State.

8. An animal producer who supplies animal manure to a broker/land applier shall provide the broker/land applier with the concentration of plant available nitrogen, phosphorus, potassium, and the concentration of all other constituents listed in the permit. ~~Unless~~If the broker/land applier is providing an additional service of ~~performing the manure analysis, collecting the manure samples to be analyzed,~~ which shall be agreed upon up-front in the manure transfer contract, the analysis shall identify the name of the farm where the manure originated.

9. Animal manure and other animal by-products shall not be applied to or discharged onto a land surface when the vertical separation between the manure and other animal by-products and the seasonal water table is less than 1.5 feet at the time of application. For special cases, no land application can occur when the vertical separation from the ground surface to the water table is less than 1.5 feet at the time of application unless a situation is deemed an emergency with departmental concurrence.

10. Soil sampling (6-8 inches depth) shall be conducted for each field prior to manure application to determine the appropriate application rate. Each field should be sampled once per year. If manure application frequency will be less than once per year, at least one (1) soil sample should be taken prior to returning to that field for land application-again. This sample shall not be more than one (1) year old. All new manure utilization areas shall be evaluated using the NRCS-CPS to determine the suitability for application and the limiting nutrient (nitrogen or phosphorus). This information shall be obtained from person(s) accepting dry animal manure and other animal by-products prior to the delivery or land application of animal manure and other animal by-products by the broker/land applier. Soil phosphorus shall be addressed according to NRCS-CPS in the broker management plan. However, fields that are high in phosphorus may also be required to incorporate additional runoff control or soil conservation features as directed by the Department. The Department may require additional limits on soil phosphorus in the permit conditions. Additional soil sampling may be required by the Department on a case-by-case basis to ensure there is no potential for groundwater contamination.

11. The permittee shall obtain information needed to comply with the requirements in this part.

12. A Manure Transfer Contract shall be developed for the ~~B~~broker to use with any person who is accepting manure in quantities greater than ~~twelve~~ (12) tons per recipient per year. The contract should contain, at a minimum, the following information:

a. Name, address, email, county, and telephone number of the person who is purchasing or accepting animal manure and other animal by-products;

b. Name, address, email, CAMM number, county, and telephone number of the broker who is selling or providing animal manure and other animal by-products;

~~b~~c. Manure nutrient composition (pounds per ton of ~~P~~plant ~~A~~available ~~N~~nitrogen, ~~P~~phosphorus, and ~~P~~potassium) to be filled in or provided by the broker/land applier. This information shall be obtained from the manure analysis results and the broker shall provide this information on the manure transfer contract;

ed. Land Application Field Information:

i. Physical Description (acreage, crop, soil type);

ii. Soil Test Results (nitrogen, phosphorus, potassium, zinc, and copper in pounds/acre); and

iii. Recommended Application Rates (~~N~~nitrogen, ~~P~~phosphorus, and ~~P~~potassium in pounds per acre as reported on a soil test).

ee. Attach a copy of a soils map, topographic map, county tax map, plat, FSA map, ~~OR~~ or a site plan sketch which includes the following information:

i. Manure application area with setbacks outlined;

ii. Known water supply wells within 100 feet of the property line;

iii. Adjacent surface waters, including ditches, streams, creeks, and ponds; and

iv. Identification of roads and highways to indicate location.

ef. Description of application equipment and name of person to land apply manure;

fg. Signed agreement that informs the land owner/applier that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with ~~these~~this regulations; and

gh. A copy of the land application requirements shall be provided to the recipient of the manure.

13. All persons who routinely accept animal manure and other animal by-products, in quantities greater than ~~twelve~~12 tons per recipient per year, from a broker shall be listed in the approved Broker Management Plan at the time of permit renewal. The Broker Management Plan shall include the appropriate manure utilization area information for the sites routinely used by other persons. The person accepting the manure may be required by the Department to have a Management Plan and a permit for their manure utilization areas.

14. Dead animals shall be removed from ~~dry manure~~animal manure and other animal by-products prior to land application. The livestock producer is responsible for removing all dead animals from the manure prior to transfer. Manure brokers/land appliers may not accept manure that contains dead animals, unless the broker/land applier plans to separate out the dead animals and handle the dead animals in accordance with a dead animal disposal plan approved by the Department.

15. ~~When~~If the Department receives ~~nuisance~~ complaints on a land application site, the Department may restrict land application of animal manure on the site completely or during certain time periods.

16. The Department may require ~~manure~~animal manure and other animal by-products, spread on cropland, to be disked in immediately.

17. ~~Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby opposite dwellings. Manure (solid or liquid) shall only be applied when weather and soil conditions are favorable and when prevailing winds are blowing away from nearby dwellings. Animal manure should not be applied to land when the soil is saturated, flooded, during rain events, or when a significant rain event is forecasted to occur within forty-eight (48) hours.~~

18. Any ~~manure~~animal manure and other animal by-products that contain fly larvae and fly pupae shall be disked into the ground immediately or treated with an approved and effective fly control method. If the manure utilization on a land application area creates a fly problem for the community, the owner and/or applicator shall be responsible for the control of all flies resulting from the application of the manure. Assistance in fly control and fly problem prevention can be obtained through contact with the local Clemson Extension Service Office.

19. ~~Manure~~Animal manure and other animal by-products shall not be spread in the floodplain if there is danger of a major runoff event, unless the manure is incorporated during application or immediately after application.

20. ~~Should the manure be stockpiled more than three (3) days, If the manure is stockpiled outside, the manure shall be stored on a concrete pad and/or other acceptable means approved pad and covered with an acceptable cover to prevent odors, vectors, and runoff on a daily basis (unless otherwise stated in the permit).~~ The cover should be properly vented with screen wire to let the gases escape. The edges of the cover should be properly anchored.

21. Manure Brokers/Land Appliers and other manure transporters shall use all sanitary precautions in the collection, storage, transportation, and spreading of ~~manures~~animal manure and other animal

by-products. The body of all vehicles transporting manure shall be wholly enclosed, or shall at all times, while in transit, be kept covered with an appropriate cover provided with eyelets and rope tie-downs, or any other approved method which shall prevent blowing or spillage of loose material or liquids. Should any spillage occur during the transportation of the ~~manure~~animal manure and other animal by-products, the owner/operator shall take immediate steps to clean up the ~~manure~~animal manure and other animal by-products.

D. Setbacks for manure utilization areas.

1. The minimum separation distance ~~in feet~~ required between a manure utilization area and a residence ~~is located~~ is 300 feet. If there are no residences within 300 feet of the manure utilization area, manure may be utilized up to the property line. The setback may be waived with the written consent of the owner of the residence. If the application method is injection or immediate incorporation (same day), manure can be utilized up to the property line.

2. The minimum separation distance ~~in feet~~ required between a manure utilization area and Waters of the State (including ephemeral and intermittent streams) is 100 feet when dry manure is spread on the ground surface, 75 feet when incorporation is the application method, and 50 feet when injection is the application method. When incorporation is accomplished within twenty-four (24) hours of the initial application, the distance can be reduced to 50 feet.

3. The minimum separation distance ~~in feet~~ required between a manure utilization area and ditches and swales that discharge to Waters of the State including ephemeral and intermittent streams is 50 feet.

4. The minimum separation distance ~~in feet~~ required between a manure utilization area and a potable drinking water well is ~~100~~200 feet.

5. The Department may establish additional application buffer setbacks for property boundaries, roadways, residential developments, dwellings, water wells, drainage ways, and surface water (including ephemeral and intermittent streams) as deemed necessary to protect public health and the environment. Factors taken into consideration in the establishment of additional setbacks would be animal manure application method, adjacent land usage, public access, aerosols, runoff prevention, adjacent groundwater usage, and potential for vectors and odors.

E. The Department may establish additional permitting restrictions based upon soil and groundwater conditions to ensure protection of the groundwater and surface Waters of the State (including ephemeral and intermittent streams). Criteria may include, but is not limited to, soil permeability, clay content, depth to bedrock, rock outcroppings, ~~and depth to groundwater~~aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and depth to the seasonal high groundwater table.

F. The Department may establish permit conditions to require that animal manure and other animal by- products application rates remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on Southeastern land grant universities' (~~in the southeast~~) published lime and fertilizer recommendations ~~such as the Lime and Fertilizer Recommendations, Clemson Extension Services, Circular 476~~.

G. The Department may establish minimum requirements in permits for soil and/or groundwater monitoring, for manure utilization areas. Factors taken into consideration in the establishment of soil and groundwater monitoring shall include groundwater depth, operation flexibility, application frequency, type of animal manure and other animal by-products, size of manure utilization area, aquifer vulnerability, proximity to a State Approved Source Water Protection Area, and loading rate.



1. The Department may establish pre-application and post-application site monitoring requirements in permits for limiting nutrients or limiting constituents as determined by the Department.

2. The Department may establish permit conditions, which require the permittee to reduce, modify, or eliminate the animal manure and other animal by-products applications based on the results of this monitoring data.

3. The Department may modify, revoke and reissue, or revoke a permit based on the monitoring data.

H. The Department may require manure to be treated for odor control (i.e., composting or lime stabilizing for dry operations) prior to land application if the manure is not incorporated into the soil at the time of land application or if odors exist or are suspected to exist at an undesirable level. Manure, which has a very undesirable level of odor before treatment, such as turkey manure, shall not normally be permitted to be land applied on land near residences without appropriate treatment for odor control.

#### **400.70. Other Requirements.**

A. On a case-by-case basis, the Department may impose additional or more stringent requirements for the management, handling, treatment, storage, or utilization of animal manure and other animal by-products.

B. The following cases shall be evaluated for additional or more stringent requirements:

1. Source water protection. Facilities and manure utilization areas located within a ~~s~~State ~~a~~Approved ~~s~~Source ~~w~~Water ~~p~~Protection ~~a~~Area.

2. 303(d) Impaired Waterbodies List. Facilities and manure utilization areas located upstream of an impaired waterbody.

3. Proximity to Outstanding Resource Waters, trout waters, shellfish waters, or would adversely affect a federally listed endangered or threatened species, its habitat, or a proposed or designated critical habitat.

4. Aquifer Vulnerability Area, an area where groundwater recharge may affect an aquifer.

C. If an adverse impact to the Waters of the State, ~~(including ephemeral and intermittent streams and groundwater.)~~ from animal manure and other animal by-products handling, storage, treatment, or utilization practices are documented, through monitoring levels exceeding the standards set forth in ~~Regulation R.61-68~~ or a significant adverse trend occurs, the Department may require the person responsible for the animal manure and other animal by-products to conduct an investigation to determine the extent of impact. The Department may require the person to remediate the water to within acceptable levels as set forth in ~~Regulation R.61-68~~.

D. Animal manure shall not be released to Waters of the State, ~~(including ephemeral and intermittent streams).~~

E. Animal medical waste shall not be land applied with animal manure and other animal by-products.

F. Animal manure and other animal by-products shall not be removed by a manure broker from a quarantined farm, until that quarantine has been lifted by the State Veterinarian.

G. Animal manure and other animal by-products that are quarantined for noxious weed seed contamination shall not be removed by a manure broker unless approved by Clemson Plant Industry.

H. If the Department determines that a complaint exists, the broker/land applier shall take action to correct the nuisance to the degree and within the time frame designated by the Department.

#### **400.80. Odor Control Requirements.**

A. An odor abatement plan shall be included, which may consist of the following:

1. Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of a Best Management Plan for Odor Control;
2. Use of treatment processes for the reduction of undesirable odor levels;
3. Additional setbacks from property lines beyond the minimum setbacks given in this part;
4. Other methods as may be appropriate; or
5. Any combination of these methods.

B. Person(s) who transport, treat, store, or land apply manure and other animal by-products shall utilize Best Management Practices normally associated with the proper operation and maintenance of an animal manure and other animal by-products treatment or storage facility and any manure utilization area to ensure an undesirable level of odor does not exist.

C. No person(s) who transport, treat, store, or land apply manure and other animal by-products may cause, allow, or permit emission into the ambient air of any substance or combination of substances in quantities that an undesirable level of odor is determined to result unless preventive measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department shall determine if the odor is at an undesirable level.

~~D. After determining an undesirable level of odor exists, the Department shall require remediation of the undesirable level of odor. For an existing facility, if~~ If the Department determines an undesirable level of odor exists, the Department may require these abatement or control practices, including, but not limited to, the following:

~~E. The Department may require these abatement or control practices:~~

1. Remove or dispose of odorous materials;
2. Methods in handling and storage of odorous materials that minimize emissions;
  - a. Dry manure to a moisture content of fifty percent (50%) or less;
  - b. Use disinfection to kill microorganisms present in manure;
  - c. Aerate manure;
  - d. Compost solid manure and other animal by-products; and/or

e. Utilize ~~O~~odor ~~C~~ontrol ~~A~~dditives.

3. Prescribed standards in the maintenance of premises to reduce odorous emissions;

a. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are utilized);

b. Plant trees around or downwind of the manure and other animal by-products storage and treatment facilities;

c. Incorporate manure and other animal by-products immediately, within twenty-four (24) hours after land application;

d. Select appropriate times for land application.

4. Best available control technology to reduce odorous emissions.

~~FE~~. If the permittee fails to control or abate the odor problems at a land application site to the satisfaction and within a time frame determined by the Department, the broker permit may be revoked. If the permittee fails to control or abate the odor problems at land application sites, approval for land application of manure on the manure utilization area in question may be revoked. Additional land may be required to be added to the ~~animal facility~~broker management plan, if necessary to provide a sufficient amount of land for manure utilization.

#### **400.90. Vector Control Requirements.**

A. A Vector Abatement Plan shall be developed for the dry animal manure and other animal by-products storage or treatment facility or land application areas, (if applicable). The Vector Abatement Plan shall, at a minimum, consist of the following:

1. Normal management practices used at the dry animal manure and other animal by-products storage or treatment facility to ensure there is no accumulation of organic or inorganic materials to the extent and in such a manner as to create a harborage for rodents or other vectors that may be dangerous to public health.

2. A list of specific actions to be taken by the broker/land applicer if vectors are identified as a problem at the dry animal manure and other animal by-products storage or treatment facility or land application site. These actions should be listed for each vector problem, e.g., actions to be taken for fly problems, actions to be taken for rodent problems, etc.

3. If the broker is not performing land application, but is only transferring the manure to a person who is accepting responsibility for handling the manure in accordance with ~~these~~this regulations, the person accepting the manure shall be responsible for correcting any nuisance problems resulting from the land application of manure.

B. No broker/land applicer may cause, allow, or permit vectors to breed or accumulate in quantities that result in a nuisance level, as determined by the Department.

C. ~~After determining a vector problem exists, the Department shall require remediation of the problem to the satisfaction of the Department. For an existing broker/land applicer, if the Department determines a~~

vector problem exists, the Department may require these abatement or control practices, including, but not limited to, the following:

~~D. The Department may require abatement or control practices, including, but not limited to the following:~~

1. Remove and properly dispose of vector infested materials;
2. Methods in handling and storage of materials that minimize vector attraction;
  - a. Compost solid manure;
  - b. Appropriately use vector control chemicals, poisons, or insecticides (take caution to prevent insecticide resistance problems);
  - c. Utilize traps, or electrically charged devices;
  - d. Utilize biological agents;
  - e. Utilize Integrated Pest Management; and/or
  - f. Incorporate manure and other animal by-products immediately, within twenty-four (24) hours after land application.
3. Prescribed standards in the maintenance of premises to reduce vector attraction;
  - a. Remove any standing water that may be a breeding area for vectors;
  - b. Keep storage and/or treatment facilities clean and free from trash or debris;
  - c. Properly use and service bait stations;
  - d. Keep grass and weeds mowed around the manure storage and/or treatment areas;
  - e. Cover or reduce the surface area of manure and other animal by-products storage. (Vents shall be provided for release of pressure created by manure gases if completely sealed covers are used);
  - f. Conduct a weekly vector monitoring program;
  - g. Be aware of insecticide resistance problems, and rotate use of different insecticides; and/or
  - h. Ensure proper grading and drainage around the buildings to prevent rain water from entering the buildings or ponding around the buildings.
4. Utilize the best available control technology to reduce vector attraction and breeding.

#### **400.100. Record Keeping.**

A. A copy of the approved Broker/Land Applier Management Plan, including approved updates, and a copy of the permit(s) issued to the broker/land applier shall be retained by the permittee for as long as the broker is in operation.

B. All application information submitted to the Department shall be retained by the permittee for eight (8) years. ~~However, if the facility was permitted prior to the effective date of this regulation, and the permittee has previously discarded these documents since there was no requirement to maintain records at that time, this requirement shall not apply.~~

C. Animal ~~m~~Manure Records. These records shall be kept for ~~four~~five (5) years. The records shall include the following:

1. Name, address, email, county, and phone number of all producers from whom the broker/land applier purchases or accepts animal manure;
2. Sampling results for the animal manure;
3. Amount (in tons) of animal manure obtained from each producer; and
4. Date of transfer.

D. All completed Manure Transfer contracts, including soil analysis results, between the broker and the person(s) purchasing or accepting animal manure, shall be kept by the broker for eight (8) years.

E. All records retained by the broker/land applier shall be kept at an appropriate business office, or other location, as approved by the Department.

F. All records retained by the broker/land applier shall be made available to the Department during normal business hours for review and copying, upon request by the Department.

#### **400.110. Reporting.**

A. The Department may establish reporting requirements in permits as it deems appropriate. These reporting requirements may include ~~the following:~~

~~1. Manure Balance Sheet-Listing, which lists~~ the producer/farm name and amount (tons) of manure provided and a listing of all person(s) who bought or accepted animal manure and the amount (tons) accepted. Any manure that is currently in storage or treatment structures at the broker/land applier facility shall be accounted for in this report.

B. The Department may require on a case-by-case basis any of the required records, as outlined in section 400.100, to be reported on an annual basis.

#### **400.120. Training Requirements.**

A. An owner/operator of a manure brokering/land applying business shall be trained and certified on the operation of animal manure management under the poultry version of the certification program created and operated by Clemson University (CAMM). The certification shall be obtained within one (1) year of the effective date of the issued permit.

B. The certification program shall be completed by owners/operators of existing brokerage/land applier businesses within one (1) year of the effective date of this regulation or of a transfer of ownership approval.

~~B-C.~~ Failure to obtain the ~~training certification~~ and education as provided in this Section shall be deemed a violation of this ~~R~~regulation and a violation of the permit.

#### **400.130. Violations.**

~~A-~~Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

### **PART 500 INTEGRATOR REGISTRATION PROGRAM.**

- ~~500.10. General.~~
- ~~500.20. Submittal Requirements.~~
- ~~500.30. Certificate of Integrator Registration.~~
- ~~500.40. Reporting.~~
- ~~500.50. Other Requirements.~~
- ~~500.60. Violations.~~

#### **500.10. General.**

A. The Department encourages Integrators to be involved with the permitting and compliance of their growers.

B. The Department encourages Integrators to assist growers in the disposal of dead animals and the proper utilization of animal manure.

C. Integrating companies shall inform each prospective grower that they are required by State law to obtain a permit to construct and an approval to operate from the Department, and a certification of construction from the engineering company or NRCS. The Department recommends that growers verify an exemption status from the Department prior to construction of an agricultural animal facility.

#### **500.20. Submittal Requirements.**

A. Each integrating company that contracts with animal producers that operate facilities located within the State shall submit to the Department a Request for Registration form, as provided by the Department. The ~~i~~Integrator shall work with the Department to identify growers that are unpermitted. The Department may schedule an annual inspection in order to review grower lists and identify unpermitted farms. The integrator shall provide the Department any additional information needed to contact unpermitted growers contracting with their company. ~~Existing Integrators or integrating companies shall submit a request form to the Department no later than one year after the effective date of these regulations.~~

B. Animal Manure Analysis Information. If the producers that contract with the integrator use the same feed rations and have dry animal manure analyses that come out to be consistently the same, they may qualify to use one (1) analysis for their individual testing requirement. However, if any of these producers utilize a different feed ration, utilize a significant amount of medications as compared to the others, or use any other inconsistent bedding materials, animal manure treatments, or vector treatments, they shall be required to run a separate and individual analysis on their animal manure. The Integrator is responsible for notifying the Department of any significant feed composition changes. This benefit shall not be available to liquid manure handling systems, since other factors specific to each site, such as rainfall, could affect the nutrient analysis of the manure.

C. If an integrating company can certify through general feed composition reports that a certain constituent, such as arsenic, is not present in their feed or medications, the producers that contract with that integrator may be exempt from testing for that constituent. The integrator shall submit a written request, along with general feed composition reports, and a list of growers who are using this feed ration. The Department shall approve this report in writing before the constituent can be removed from the analysis requirements. Each grower who is included in this exemption shall be notified in writing by the Department.

D. Swine Integrators must submit a plan addressing cumulative environmental and public health impacts of their contracted facilities with their first request for integrator certification. The plan must cover the integrator's existing contract growers and the projected three (3) year increase in the number of permitted facilities and swine. The plan must include:

1. The general area served by the integrator;
2. The number of existing swine facilities under contract;
3. The number of swine grown (broken down by facility);
4. The number of projected new facilities (broken down by facility size) with the total number of swine;
5. The integrating company's: procedures, protocols, policies, programs, required manure treatment and utilization technologies, etc. to ensure the cumulative impacts from their contracted facilities do not cause any adverse impact to the environment or public health; and
6. An assessment of the adverse environmental or public impact, if any, from the existing and proposed swine facilities under contract with the integrator.

~~E.7.~~ The Swine Integrator must also provide to the Department any other supplemental information that may reasonably be required by the Department to assess cumulative adverse environmental or public health impacts.

~~E.8.~~ The environmental and public health impact assessment plan must be approved by the Department before integrator certification can be granted. Once approved, the integrator may update the plan at any time. Also, the Department may require the plan be updated from time to time.

~~E.~~ All permits for growers under contract with the integrator must be in accordance with the integrator's approved plan.

F. All integrators are required to submit, on an annual basis by December 31<sup>st</sup> of each year, a list of active and inactive growers that have been added and/or released from their contracts.

### **500.30. Certificate of Integrator Registration.**

A. The Department shall issue a certificate of integrator registration to integrators or integrating companies that meet all the requirements of this part.

B. All integrators or integrating companies shall hold a valid certificate of registration to operate in the State.

C. Certificates of integrator registration issued under this part do not have any administrative procedures for public notice under ~~these~~this regulations.

D. The certificate of integrator registration may be modified, revoked, or reissued if the requirements of this part are not met by the integrator or integrating company.

#### **500.40. Reporting.**

A. The Department may establish reporting requirements for integrators as it deems appropriate. These reporting requirements may include the following:

1. General feed composition reports. Feed composition reports provided in accordance with this section shall be exempt from disclosure under the Freedom of Information Act; and

2. A list of any special treatments or chemicals added to the manure or manure storage structure that are required by the integrator.

#### **500.50. Other Requirements.**

A. An integrator or integrating company shall not knowingly provide animals to an animal facility that does not hold a valid agricultural permit and an approval to operate from the Department. Any existing, unexpired contracts may be fulfilled, but the integrator may not renew the contract until the facility has obtained a valid permit and approval to operate. ~~The Department shall allow a grace period of at least one year for existing unpermitted farms. If an integrator knowingly provides animals to an animal facility that does not hold a valid permit, the Department may require the integrator to remove the animals from the facility and be subject to Part 500.60.~~

B. The integrator or integrating company shall take reasonable steps to ensure that the animal facilities that are under contract with the company are certified, trained, and educated on compliance with their permit to include the following:

1. Notify growers of their responsibility to update their Animal Facility Management Plan and permit if changes are made in the operation of the farm; and

2. Provide information on technical assistance to its growers on compliance and assist the producers in selecting a corrective action.

#### **500.60. Violations.**

~~A.~~ Persons who violate this regulation or any permit issued under this regulation are subject to the penalties in Sections 48-1-320 (Criminal Penalties) and 48-1-330 (Civil Penalties) of the South Carolina Pollution Control Act.

#### **~~Part 600. Severability~~**

### **PART 600** **SEVERABILITY**

~~A.~~ Should a section, paragraph, sentence, clause, phrase, or other part of this regulation be declared invalid for any reason, the remainder shall not be affected.

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



The amendments have no substantial fiscal or economic impact on the state or its political subdivisions. There are no anticipated additional costs by the Department or state government due to any requirements of this regulation.

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION: R.61-43, Standards for the Permitting of Agricultural Animal Facilities.

Purpose: The Department amends R.61-43 to incorporate statutory changes made by the General Assembly's passage of Act 139 of 2018 and to correct typographical errors, citation errors, and other errors and omissions. These amendments expand and clarify definitions applicable to agricultural animal facility regulations and standards, streamline permitting options, clarify reporting requirements, identify the Department's consistent noticing method, improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-43.

Legal Authority: 1976 Code Sections 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.

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

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

The Department amends R.61-43 to adopt the changes of Act 139 that amended S.C. Code Sections 44-1-60 and 46-45-80 and added Section 44-1-65. S.C. Code Section 44-1-65 establishes specific requirements for review and appeal of decisions by the Department regarding the permitting, licensing, certification, or other approval of poultry and other animal facilities, except for swine facilities. Section 44-1-60 sets procedures for reviewing permits for poultry and other animal facilities, except swine facilities, relating to appeals from Department decisions giving rise to contested cases. Section 46-45-80 includes provisions regarding setback distances for poultry and other animal facilities, except swine facilities, so as to prohibit requiring additional setback distances if established distances are achieved, allow waiver of the established setback distances in certain circumstances, and other purposes. Since the above-referenced statutory provisions added and removed requirements currently contained in R.61-43, the regulation is amended to reflect these changes.

The Department also amends the regulation to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention. These include correcting form references and regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The amendments seek to simplify, clarify, and correct elements of the Department's agriculture animal facility permitting regulations while supporting the Department's goal of promoting and protecting the health of the public and the environment in an efficient and effective manner.

#### DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate an increase in costs to the state, its political subdivisions, or the regulated community resulting from these revisions. Changes to the public notice process will be a cost-saving measure to the applicants and the Department; public notices will be available on the Department website, thereby decreasing the cost of publishing the notices in the local newspapers. The changes are meant to create a more usable and functional regulation that will assist the regulated community and the citizens of South Carolina.

#### UNCERTAINTIES OF ESTIMATES:

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

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

These amendments seek to provide continued state-focused protection of the environment and public health.

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

If these proposed revisions are not implemented, R.61-43 will not include the policy initiatives advanced by Act 139.

#### **Statement of Rationale:**

The Department amends R.61-43, Standards for the Permitting of Agricultural Animal Facilities, to incorporate statutory changes made by the General Assembly's passage of Act 139 of 2018 and to correct typographical errors, citation errors, and other errors and omissions. These amendments expand and clarify definitions applicable to agricultural animal facility regulations and standards, streamline permitting options, clarify reporting requirements, identify the Department's consistent noticing method, improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-43.

**ATTACHMENT B**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**Document No. 4997**

**R.61-43, Standards for the Permitting of Agricultural Animal Facilities**

**As of the October 26, 2020, close of the Notice of Proposed Regulation comment period:**

<b>Name</b>	<b>Section</b>
Dr. David Wicker	Determination of Cost and Benefits
<p><b>Comment:</b> 1. Attachment A, Page 4. Determination of Cost and Benefits, reads: "The Department does not anticipate an increase in costs in the state, its political subdivisions, or the regulated community resulting from these proposed revisions. Proposed changes to the public notice process will be a cost saving measure to the applicants and the Department. The proposed changes are meant to create a more usable and functional regulation that will assist the regulated community and the citizens of South Carolina.</p> <p>Increased costs will be incurred by the regulated community for professional engineering fees, by the expansion and clarification of definitions, and by the new proposed regulations for daily mortality disposal. These increased costs are given in Attachment I.</p> <p><b>Department Response:</b> The Department is accepting comments to not change the current burial methods allowed by R.61-43, therefore there should not be any cost increase.</p>	
<b>Name</b>	<b>Section</b>
Dr. David Wicker	Definitions
<p><b>Comment:</b> Attachment A, Pages 7, 8, 12, 13, 14, and 15 have definitions for animal facilities. There are 18 separate definitions for "animal facilities" in the first 15 pages of attachments.</p> <p>Nine new definitions, "Active Animal Facility", page 7, "Animal Feeding Operation", page 7; "Concentrated Animal Feeding Operation (CAFO) page 8, Feedlot, page 10, "Inactive Facility", page 10, "Production" facility, page 13, "Ranged Animal Facility", page 13, "X-Large Animal Facility", page 15, and "X-Large Swine Facility", page 15, were added in these proposed regulations.</p> <p>Eighteen separate definitions for animal facilities/feed operations are confusing. The original regulations had 9 definitions. I have been involved in animal agricultural with these regulations and federation regulations since the regulations were implemented. With 18 separate definitions, I had to read many of the regulations numerous times before I thought that I understood what DHEC was proposing.</p> <p>Eighteen definitions for animal facilities, will be difficult to be understood and implemented by the regulated community and DHEC. I suggest that these definitions of "animal facilities" be condensed and reduced to a minimum number in order that the proposed regulations can be clearly understood and implemented by the regulated community and DHEC.</p> <p><b>Department Response:</b> Not adopted. The Department proposed new definitions to explain more clearly the different kinds and sizes of facility operations in the state.</p>	

Name	Section
Dr. David Wicker	Definitions
<p><b>Comment:</b> Attachment A, page 8 reads: "Application Rate" means the amount of manure applied at any one time based on agronomic rates.</p> <p>This definition should be revised to read: "Application Rate means the amount of manure applied at any one time."</p> <p>The term "agronomic rate" is not applicable to this definition. For example, manure may be applied at less than agronomic rates or manure can be applied at an agronomic rate for corn that would be higher than the agronomic rate for soybeans. The application rate should be defined as the rate (amount) of manure applied. A similar definition occurs on page 11.</p> <p><b>Department Response:</b> Adopted "Application Rate means the amount of manure applied at any one time." The change has been made.</p>	
Name	Section
Dr. David Wicker	Definitions
<p><b>Comment: 4.</b> Attachment A, page 9 reads: "Cover crop means a small grain crop, including, but not limited to oats, wheat, or barley; grasses; or other crop grown for agronomic use or to maintain topsoil and prevent erosion.</p> <p>This definition should be revised to read: "Cover crop means, a vegetative crop, including but not limited to oats, wheat or barley, grasses, or other crops grown for agronomic use or to maintain topsoil and prevent erosion.</p> <p>This revision is required because cover crop does not mean a small grain crop. Tillage radishes, turnips, hairy vetch, grasses, and many other vegetative crops are used as cover crops.</p> <p><b>Department Response:</b> Adopted, "Cover crop means, a vegetative crop, including but not limited to oats, wheat or barley, grasses, or other crops grown for agronomic use or to maintain topsoil and prevent erosion." The change has been made.</p>	
Name	Section
Dr. David Wicker	Definitions
<p><b>Comment:</b> Attachment A, page 9. "Downwind Receptors refers to virtual three-dimensional coordinates placed offsite where the concentrations of emissions would be measured for comparison to air quality standards."</p> <p>This definition should be revised to read: "Downwind Receptor Sites means the three-dimensional coordinates that locate where the concentrations of emissions would be measured to determine air quality."</p> <p>This revision is required because the coordinates are not "virtual", the location is defined and real. Due to the size of the facility /farm, this site could be on or off the site thus, "placed offsite" should be deleted.</p> <p><b>Department Response:</b> Not adopted. Definition is from the Department's Bureau of Air Quality regulations.</p>	
Name	Section
Dr. David Wicker	Definitions
<p><b>Comment:</b> Attachment A, page 9. "Evergreen Buffer" means trees that have foliage remaining green and functional through at least more than one growing season and are not considered deciduous.</p>	

This definition should be revised to read: "Evergreen Buffer means plants such as trees, shrubs or grasses that have foliage that remains green and functional through at least more than one growing season and are not deciduous.

**Department Response:**

Adopted, "Evergreen Buffer means plants such as trees, shrubs or grasses that have foliage that remains green and functional through at least more than one growing season and are not deciduous." The change has been made.

Name	Section
Dr. David Wicker	Definitions

**Comment:** Attachment A, page 9. "Critical Habitat" means the term used to define those areas of habitat containing physical and biological features that are essential for an endangered or threatened species" to recover and that require special management or protection.

This definition should be revised to read "Critical Habitat for an endangered or threatened species" means those areas of habitat containing physical and biological features that are essential for an endangered or threatened species.

Critical habitat applies to many species that are not threatened, i.e., humans require water and oxygen. The terms "to recover and that require special management or protection" are descriptors that should not be a part of the definition.

**Department Response:**

Not adopted. The definition is a term that is defined and used in the U. S. Endangered Species Act.

Name	Section
Dr. David Wicker	Definitions

**Comment:** Attachment A, Page 11. Manure Application Rates means managing manure to optimize its beneficial returns while minimizing its potential environmental impact by land applying at agronomic rates."

This definition should be revised and combined with the definition of "Application rate" on page 8 to read: "Manure Application Rate is the amount of manure applied at any one time." The terms "agronomic rates", "beneficial returns", "minimizing its potential environmental impact" are descriptors of desired outcomes and should not be a part of the description. These definitions should be combined to eliminate having two definitions for the same term.

**Department Response:**

Not adopted. Definition was removed.

Name	Section
Dr. David Wicker	Definitions

**Comment:** Attachment A, page 12. "Mass Burial Site" means a section of land approved by the Department designated to handle excessive mortality.

This definition should be revised to read: "Mass Burial Site" means an area of land approved by the Department and designated to be a mass burial site for excessive mortality.

A "section" of land is a defined term used by USDA, surveyors, land owners, etc. to mean 640 acres of land (one square mile of land). The term section is further used as one-half or one-fourth section of land; thus, the word "area" should be used.

**Department Response:**

Adopted, "Mass Burial Site" means an area of land approved by the Department and designated to be a mass burial site for excessive mortality. The change has been made.

Name	Section
Dr. David Wicker	Definitions

**Comment:** Attachment A, page 12, Outstanding Recreational or Ecological Resource Waters (ORW) reads: "Outstanding Recreational or Ecological Resource Waters (ORW)" means waters which are of exceptional recreational or ecological importance, or of unusual value. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources, or waters used for or having significant value for scientific research and study."

This definition needs to be revised to read: "Outstanding Recreational or Ecological Resource Waters (ORW) means waters which are of exceptional recreational or ecological importance as defined by the State of South Carolina.

The use of the other descriptions to define the term have the potential to create different "classes of property owners" such as "wildlife refuges". Would a private wildlife refuge licensed or non-licensed by the state be able to declare its "waters of exceptional value"? Similarly, the verbiage "known to be or known to contain", known by whom and by what authority. Also, the verbiage "having significant value for scientific research and study"; can any person(s) publishing research state that these waters have significant research value? All designations should be defined and approved by South Carolina law.

**Department Response:**

Not adopted. This term is defined in the Department’s Bureau of Water regulations.

Name	Section
Dr. David Wicker	Definitions

**Comment:** Attachment A, page 12. "Operator and Owner. "Operator" means the person(s) that manage(s) a permitted animal facility and may be CAMM certified. "Owner" means the owner or operator of any facility of activity subject to regulations under R.61-43.

The term "Operator" is well defined. However, the term "Owner" is defined as the "owner or operator". An operator may not be the owner of a facility. The definitions should be revised to read: "Operator" means the person(s) who manages a permitted animal facility, may be CAMM certified, and that facility activity is subject to regulations under R.61-43.

"Owner" means the owner of any facility of activity subject to regulations under R.61-43.

**Department Response:**

Not adopted. A change was made in the definition of owner to proprietor and deleted operator out of the owner definition.

Name	Section
Dr. David Wicker	Section 200.130

**Comment:** 12. Attachment A, page 85, 200.130.B. reads:  
 B. "Burial. (For existing facilities permitted prior to January 2023 with a burial site approved by the Department). Facility permits issued after January 2023 or facilities permitted prior to January 2023 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal. After January 2023, burial sites will be approved by the Department for an emergency that is declared by the SC State Veterinarian, Clemson Livestock Poultry Health, charged with protecting animal health through

control of endemic, foreign, and emerging diseases in livestock and poultry and protecting the health of SC consumers.

1. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

This item should be revised to add:

B. "Burial. (For existing facilities permitted prior to January 2023 with a burial site approved by the Department). Facility permits issued after January 2023 or facilities permitted prior to January 2023 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal. After January 2023, burial sites will be approved by the Department for an emergency that is declared by the SC State Veterinarian, Clemson Livestock Poultry Health, charged with protecting animal health through control of endemic, foreign, and emerging diseases in livestock and poultry and protecting the health of SC consumers.

2. Burial pits may be utilized for emergency conditions, as determined by the Department, when the primary method of disposal is not sufficient to handle excessive mortality.

3. Daily burial sites will be approved on a facility basis.

Stopping daily mortality burials would add significant cost to the average poultry producer in South Carolina. There have been little to no concerns with daily mortality burial. Any concerns with daily mortality can be addressed by the Department on a facility basis with a greater benefit to SC than eliminating daily mortality burials.

**Department Response:**

Considered and the Department will not be removing burial as a dead animal disposal option from Sections 100.130 or 200.130.

Name	Section
Dr. David Wicker	Cost Analysis of Burial vs. Composting

**Comment:** Attachment I – Estimated Mass Burial Costs There are significant cost differences for mass poultry mortality composting structures versus burial of mass poultry mortalities.

Several possibilities can occur with mass mortalities.

I. High mortality (80% of the animals) in a house can occur due to weather disturbances, loss of electrical power, or causes other than exotic disease. A. This mortality can be composted in the house where the mortality occurred. The costs to compost this mortality would be the cost of materials for composting, the labor, and equipment to compose the birds and the lost income due to a nonproductive house for 1 flock. These costs are estimated to be:

1. Cost of composting material	1 - \$550	\$6,000	3	2. Labor and equipment to compost	2 - \$5,000
\$5,000	3. Lost Income to grower	- \$12,000	\$12,000	TOTAL:	\$17,550
Contractor Price	5	\$23,100	\$34,000		\$23,000

B. Mass Burial can be used for this mortality. The cost for mass burial of one house of 30,000 birds for labor and equipment is totaled: \$5,000 C. A composting barn can be used for this mass mortality (not daily mortality). The cost of a mass mortality barn is \$125,000 for 75' x 100' barn with concrete sides and floor per NRCS guidelines. 20 year lifespan 125,000/20 yrs. = \$6,250 - \$12,500 per year (Barn is used for litter storage and composting.) 1 or 2 year's use as a mass composter - \$6,250 - \$12,500 Thus, mass mortalities for 1 house of 30,000 would cost ---cost of facility \$6,250 - \$12,500 Carbon source \$1,000 - \$6,000 Labor & equipment \$5,000 \$5,000 Total: \$12,250 \$23,500 II. High Mortality 100% with an infectious disease such as AI or Exotic Newcastle that is federally regulated. This mortality cannot be moved offsite unless approved, and all farms (and mortalities) within 10 kilometers are quarantined.

The euthanasia, mass mortality, disposal, and disinfection procedures are under USDA and the applicable state veterinarian's office. A. Mass Burial The preferred method is mass burial onsite supervised by the State and USDA officials. Cost per house of 30,000 birds for labor and equipment. Total: \$4,500 - \$6,000  
 B. Composting in-house. The birds can be composted in-house. The cost for in-house composting for labor, equipment, materials, etc. \$6,000 \$10,000<sup>2</sup> Loss of income per house for 8 weeks \$12,000  
 \$12,000

Loss of Industry Exports \$20,250,000 \$20,250,000

Total: \$20,267,500 \$20,271,500

Industry loss due to 8 weeks additional period of composting and not being able to export poultry (all) from South Carolina internationally for an addition 8 weeks.

With mass burial, the farm cleanup and negative tests for the exotic disease (90 days) starts when the houses are clean and disinfected. In 2018, South Carolina poultry exports were \$121.5 million. An extension of export stoppage for an additional two months is \$20.25 million.

Additional loss is a conservative estimate because some U.S. customers will not accept any meat from unaffected flocks being processed on the same day as any flock from an Avian Influenza positive flock. This loss would be incurred for flocks raised in South Carolina, but processed in North Carolina or Georgia.

C. Composting in-house can only be used for 1 house of 30,000 birds. A 4-house farm mortality would be unable to use a composting facility at one time. A grower would be able to compost one house. If more houses are composted, outside contractor aid would be required and the cost would be two-to-three times higher.

III. Daily Mortalities Daily mortality of 1,400 birds over the growing cycle for a 30,000 bird house. A. Burial Pit \$200 Equipment to construct and top - \$250 This pit is usable for 2 years at a cost of \$ 50.00 per flock

B. Daily Mortality Composting House Cost for construction and material \$125,000 ÷ 6 houses = \$20,833 per house. Life of facility - 20 years \$20,833 ÷ 20 years = \$1,041/year Carbon source = \$120/year  
 5.5 flocks/year = \$212/flock

1Cost of composting Materials varies due to the amount of litter in the house and whether the house contains broilers or turkeys. With broilers at 5 pounds each and 3-4 flocks of built up litter only 1 load of a carbon source is needed. With turkeys at market age, 5 trailer loads of a carbon source would be required.

2Turkey houses require more carbon source for composting.

3Labor and equipment cost are for the grower having the equipment required. If outside contractors are used, the cost is 2-3 times higher.

4Growers can compost 1 house of mortality with their equipment and labor. For 3-4 houses, of mortality, an outside contractor must be used at higher cost.

5Contractor price does not include lost income to the grower.

**Department Response:**

The Department has reviewed the proposed costs presented.

Name	Section
Gary Spires	100.130 and 200.130

**Comment:**

The South Carolina Farm Bureau (SCFB) is a statewide organization that brings together farmers, ranchers, entrepreneurs, agribusiness professionals and food enthusiasts to strengthen the future of agriculture in South Carolina. Agribusiness in South Carolina has a total annual economic impact of over \$46 billion, making it one of the largest industries of the state. We represent nearly 25,000 family farms that are subject to regulations at the



local, state, and federal level. We appreciate the opportunity to provide comments on the changes SCDHEC is proposing to R.61-43, Standards for the Permitting of Agricultural Animal Facilities.

Our farmers believe in reasonable regulations. Two important safeguards to insure the reasonableness of a regulation is the requirement of statutory authority for promulgating the regulation and the requirement of the agency to promulgate regulations in accordance with the South Carolina Administrative Procedures Act. See S.C. Code Ann. § 1-23-110. These requirements are enacted to ensure that an agency is acting within the authority given to it by the General Assembly. They are in place to put interested parties on meaningful notice of the changes agencies are making to regulations which affect their lives and livelihoods. They are in place to ensure that an agency solicits and considers meaningful public input during the rulemaking process. Based on the notice of drafting and proposed regulation, SCDHEC has failed to comply with the requirements of S.C. Code § 1-23-110 and has failed to accurately summarize the financial impact of the proposed regulations of the regulated community.

In particular, the proposed changes to Sections 100.130 and 200.130 of R. 61-43, the Dead Swine Disposal Requirements and the Dead Animal Disposal Requirements, respectively, have potential to substantially increase the costs for many of SCFB's members. The changes to these two sections of the regulations effectively outlaw burial for daily and emergency animal disposal. Additionally, after 2023, SCDHEC will only approve burial sites for an emergency declared by the South Carolina State Veterinarian. Furthermore, nothing in any of the statements made by SCDHEC in the Notice of Drafting or the Notice of Public Hearing published in the South Carolina State Register on September 25, 2020 (Volume 44, Issue 9) explains why SCDHEC has made changes to the dead animal disposal requirements.' SCDHEC does not even mention these changes to the regulations in its summary of the proposed amendments to R. 61-43 in SCDHEC's Regulation Development Update report published online the fourth Friday of each month.<sup>2</sup> While S.C. Code Ann. § 48-1-10 et seq., the Pollution Control Act, confers broad statutory authority for these proposed amendments, the APA imposes a substantial burden on the agency to demonstrate proposed regulations are justified and reasonable. The agency has failed to mention these amendments in the preamble to the proposed regulations and does not mention amendments of this nature in the justification for these and similar proposed amendments to substantive provision of the regulations .. SCDHEC continuously cites Act 139 of 2018 as justification for the proposed amendments to R. 61-43, but Act 139 of 2018 did not change any statutes in the Pollution Control Act. Nothing in Act 139 of 2018 changed how dead animals are disposed of at an agricultural animal facility. The General Assembly worked with the regulated community and other stakeholders for years to pass Act 139 of 2018, with the intent to provide regulatory relief and certainty in the permitting process for agricultural animal facilities. Using Act 139 of 2018 as justification to push forward a policy that will actually increase the burden on growers is in express opposition to that intent and a gross misreading of the law.

Additionally, SCDHEC is required to "include a section-by-section discussion of the proposed regulation and a justification for any provisions not required to maintain compliance with federal law[.]" See S.C. Code § 1-23-110. In Vol. 44, Issue 9, page 37 of the South Carolina State Register, the "discussion" for Section 100.130 states "added language for phasing out option for burial. Amended for clarity." Section 200.130 merely states, "amended for clarity and content. Recodified." SCDHEC does not offer any justification as to why it is "phasing out" the burial option. SCDHEC does state the following in the Notice of Drafting: "[t]he Department also proposes amendments to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention," but this provision is clearly meant for clerical errors, not the introduction of a completely new policy.

As far as SCFB knows, there has been no scientific data provided to stakeholders as to why the current disposal requirements are not sufficient. As far as SCFB knows, there have been no incidents or factual examples provided to support the need to outlaw burials in South Carolina. The General Assembly has not passed a single law that states a farmer cannot use burial for animal disposal. The General Assembly has not made a single law that burial sites can only be used in the event of an emergency declared by the State Veterinarian. The General Assembly has not made any changes to the Pollution Control Act since 2012. SCDHEC is proposing a regulatory change that will increase the burden and create an economic hardship on growers, without giving any meaningful analysis or justification for doing so.<sup>3</sup>

SCDHEC has always been willing to work with the regulated community on issues and we look forward to continuing this collaborative relationship as we work through the regulatory process. We will gladly meet with SCDHEC to discuss these issues further.

**Department Response:**

Considered and the Department will not be removing burial as a dead animal disposal option from Sections 100.130 or 200.130.

Name	Section
Ethan Ware	200.130

**Comment:** Thank you for the opportunity to submit comments on the above referenced Notice of Proposed Rulemaking. Our comment on proposed amendments to Regulation 61-43, Standards for the Permitting of Agricultural Facilities is as follows:

Document Number 4997 [Attachment A], page 85, Sec. 200.130.B. reads:

"B. Burial. (For existing facilities permitted prior to January 2023 with a burial site approved by the Department). Facility permits issued after January 2023 or facilities permitted prior to January 2023 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal. After January 2023, burial sites will be approved by the Department for an emergency that is declared by the SC State Veterinarian, Clemson Livestock Poultry Health, charged with protecting animal health through control of endemic, foreign, and emerging diseases in livestock and poultry and protecting the health of SC consumers."

Comment:

Phasing out mortality burials is arbitrary and creates an undue burden on South Carolina poultry facilities, with no measurable benefit to human health or the environment. Daily mortality burials at poultry producing facilities in South Carolina do not contribute to contamination of groundwater (classified under South Carolina Code Reg. 61-68.H.) with any pollutant regulated by R. 61-68 or R. 61-58. The proposed rulemaking should be revised to acknowledge this and remove language phasing out burial.

**Department Response:**

Considered and the Department will not be removing burial as a dead animal disposal option from Section 200.130.

Name	Section
Charleston Laffin	200.130

**Comment:** Thank you for the opportunity to submit comments in Regulation 61-43, Standards for the Permitting of Agricultural Facilities. We are extremely concerned with the costs and feasibility of doing away with mortality burials for poultry farms. Excessive and burdensome costs will be incurred by the regulated community for professional engineering fees, by the expansion and clarification of definitions, and by the new proposed regulations for daily mortality disposal. Each time a new cost is added to the production of poultry, it significantly reduces competitiveness and the ability to not only grow, but also sustain our states number one animal agriculture business on a national and international level.

The South Carolina Poultry Federation and others worked tirelessly to get the language of Act 139 through the SC General Assembly and on to Governor McMaster, so the poultry growers in SC could operate with fair and absolute setbacks and requirements. Doing away with mass and daily burial as proposed by DHEC without any supporting evidence that it has ever been an issue or caused a problem based on our current siting and operation criteria is not only unfair to the regulated community, it works counter to all we have done up to now and the intentions of the General Assembly and the Governor.

The SCPF agrees with and echoes the comments submitted to you by our board chairman, Dr. Dave Wicker of Fieldale Farms.

The people, land, and natural resources of South Carolina are of the highest priority and concern to those of us in the poultry industry. It is because of this and the history and science behind how we have properly, safely and effectively handled mortality burials, we ask that you revise and remove the language phasing out burial.

**Department Response:**

Considered and the Department will not be removing burial as a dead animal disposal option from Section 200.130.

<b>Name</b>	<b>Section</b>
Ken Martin	200.130
<p><b>Comment:</b>  As we have discussed with the proposed changes, a major cost for new farms starting in 2023 is the cost of a compost/manure stack house. The NRCS will not cost share new facilities. Poultry farms must be operating for a minimum of one year to receive cost sharing for the construction of compost/manure stack houses. Could the new regulations state that all new poultry facilities built in or after 2023 will only be allowed to bury mortality for 3 years after the start of operation? This would allow for the grower to apply for and receive cost share funding. If funding is not available, there would be sufficient equity in the farm to finance the compost/manure facility.</p> <p><b>Department Response:</b>  Considered and the Department will not be removing burial as a dead animal disposal option from Section 200.130.</p>	

Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Bureau of Air Quality

**Re: Public Hearing for Notice of Final Regulation Amending Regulation 61-62, *Air Pollution Control Regulations and Standards*, Document No. 4978**

## I. Introduction

The Bureau of Air Quality (Bureau) submits the attached Notice of Final Regulation amending R.61-62, *Air Pollution Control Regulations and Standards*, for publication in the December 25, 2020, *South Carolina State Register* (“*State Register*”). Legal authority resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq. (“Pollution Control Act”), which authorizes the Department of Health and Environmental Control (Department) to adopt emission control regulations, standards, and limitations, and take all actions necessary or appropriate to secure to the state the benefits of federal air pollution control laws. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as they are for compliance with federal law. The amendments will take legal effect as of the December 25, 2020, publication in the *State Register*.

## II. Facts

1. Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.*, and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.
2. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.
3. The Department is amending R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; R.61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; and R.61-62.68, *Chemical Accident Prevention Provisions*, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.
4. The Department is also amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA’s “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units,” also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This amendment is to ensure compliance with federal law.
5. The Department is also amending R.61-62.60 to delete Subpart B - “Adoption and Submittal of State Plans for Designated Facilities.” This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA’s promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The

Department therefore deletes R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

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

7. The Bureau held stakeholder meetings concerning South Carolina's implementation of the ACE rule on October 7, 2019, and February 24, 2020, for external stakeholders, and on October 21, 2019, February 10, 2020, June 15, 2020, and October 19, 2020, for the affected facilities. Additionally, the Bureau provided the draft amendments to both the affected facilities subject to R.61-62.60, Subpart UUUUa and external stakeholders for their review. The Bureau held stakeholder meetings for affected facilities subject to R.61-62.68, *Chemical Accident Prevention Provisions*, following EPA's initial proposal to amend 40 CFR Part 68. Additionally, the Bureau provided the final federal amendments to 40 CFR Part 68 to affected facilities following the promulgation date.

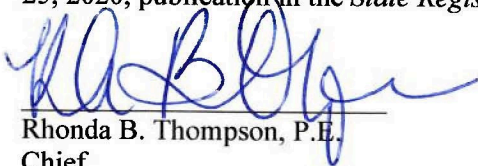
8. The Department had a Notice of Drafting published in the February 28, 2020, *State Register*.

9. Appropriate Department staff conducted an internal review of the proposed amendments on June 18, 2020.

10. The Department had a Notice of Proposed Regulation published in the August 28, 2020, *State Register*. The Department received no public comments by September 28, 2020, the close of the public comment period.

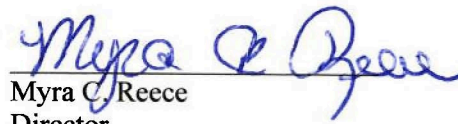
### III. Request for Approval

The Bureau of Air Quality respectfully requests the Board to find need and reasonableness of the attached amendments of R.61-62, *Air Pollution Control Regulations and Standards*, for legal effect as of December 25, 2020, publication in the *State Register*.



Rhonda B. Thompson, P.E.  
Chief

Bureau of Air Quality



Myra C. Reece  
Director  
Environmental Affairs

Attachments:

A. Notice of Final Regulation

## ATTACHMENT A

### STATE REGISTER NOTICE OF FINAL REGULATION FOR R.61-62, AIR POLLUTION CONTROL REGULATIONS AND STANDARDS

December 10, 2020

Document No. 4978

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

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

61-62. Air Pollution Control Regulations and Standards.

#### Synopsis:

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

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

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

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

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

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

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

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

**Instructions:**

Revise Regulation 61-62 as shown below. All other items and sections remain unchanged.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

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

**Regulation 61-62.60, Subpart B, shall be deleted in its entirety:**

**~~Subpart B – “Adoption and Submittal of State Plans for Designated Facilities”~~**

~~The provisions of 40 CFR Part 60 Subpart B, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.~~

<b>40 CFR Part 60 Subpart B</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 44	November 9, 1979	[44 FR 65071]
Revision	Vol. 54	December 20, 1989	[54 FR 52189]
Revision	Vol. 60	December 19, 1995	[60 FR 65387]
Revision	Vol. 65	December 6, 2000	[65 FR 76378]
Revision	Vol. 70	October 13, 2005	[70 FR 59848]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]

**Subpart Cf - “Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills”**

(A) All designated facilities as defined at 40 CFR 60.31f must comply with the requirements of this subpart.

(B) The compliance times, emission guideline conditions and requirements, operational standards for



collection and control systems, test methods and procedures, compliance provisions, monitoring requirements, reporting requirements, recordkeeping requirements, and specifications for active collection systems set forth in 40 CFR 60.32f through 60.40f, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein and applicable to each designated facility.

<b>40 CFR Part 60 Subpart Cf</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 81	August 29, 2016	[81 FR 59276]
Revision	Vol. 84	August 26, 2019	[84 FR 44547]

(C) 40 CFR 60.41f, Definitions, is adopted and incorporated by reference as if fully repeated herein, except as follows: the word “Administrator” as used in this subpart shall mean the Department of Health and Environmental Control, with the exception of the sections within this subpart that may not be delegated by the EPA.

(D) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

**Regulation 61-62.60, Subpart CCCC, shall be revised as follows:**

**Subpart CCCC - “Standards of Performance for Commercial and Industrial Solid Waste Incineration Units”**

The provisions of 40 CFR Part 60 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 60 Subpart CCCC</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
Revision	Vol. 66	March 27, 2001	[66 FR 16605]
Revision	Vol. 70	September 22, 2005	[70 FR 55568]
Revision	Vol. 76	May 18, 2011	[76 FR 28662]
Revision	Vol. 78	February 7, 2013	[78 FR 9112]
Revision	Vol. 81	June 23, 2016	[81 FR 40956]
Revision	Vol. 84	April 16, 2019	[84 FR 15846]

**Regulation 61-62.60, Subpart QQQQ title shall be revised as follows:**

**Subpart QQQQ - “Standards of Performance ~~For~~for New Residential Hydronic Heaters ~~And~~and Forced-Air Furnaces”**

**Regulation 61-62.60, Subpart TTTT title shall be revised as follows:**



**Subpart TTTT - “Standards of Performance ~~Fø~~for Greenhouse Gas Emissions ~~Fø~~for Electric Generating Units”**

**Regulation 61-62.60, Subpart UUUUa, shall be added in alpha-numeric order as follows:**

**Subpart UUUUa - “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units”**

(A) Applicability: Except as provided in (B) below, “designated facilities” that commenced construction on or before January 8, 2014, and meet the criteria set forth in 40 CFR 60.5775a(b) are subject to this subpart and must comply with all applicable requirements of this subpart, and must comply with the plan that the Department develops to implement the emission guidelines as required in 40 CFR 60.5770a(a), including permit conditions adopted pursuant to such plan and this subpart.

(B) The types of units described in 40 CFR 60.5780a are excluded from this subpart.

(C) For purposes of this subpart, “you” means the owner or operator of the designated facility, and “Department” means the South Carolina Department of Health and Environmental Control.

(D) The Department will set a standard of performance for each designated facility according to 40 CFR 60.5755a and compliance periods for each standard of performance according to 40 CFR 60.5750a through construction permits issued to each designated facility. Construction permits issued pursuant to this provision will be subject to the public participation procedures in Regulation 61-62.1, Section II.N. Each designated facility shall comply with the applicable standard of performance, compliance period, and associated requirements as set forth in the facility’s construction permit, in addition to those requirements set forth in this subpart.

(E) For the Department to determine a standard of performance for each designated facility according to 40 CFR 60.5735a and 60.5755a, and issue a construction permit, each designated facility must submit to the Department upon request the information set forth in (E)(1) through (E)(5) below. Submission in full of the information in (E)(1) through (E)(5), in combination with any additional application information under Regulation 61-62.1, Section II.C.3 requested by the Department as relevant, will constitute a designated facility’s permit application for purposes of construction permits issued to satisfy the requirements of this subpart.

(1) An evaluation of the applicability of each of the heat rate improvements specified in 40 CFR 60.5740a(a)(1) to the designated facility;

(2) An evaluation of the degree of emission limitation achievable ranges set forth in Table 1 to 40 CFR 60.5740a(a)(2)(i) through application of the heat rate improvements at the designated facility;

(3) If applicable, a summary of the application of remaining useful life or other relevant factors as provided in 40 CFR 60.24a(e) in the Department’s derivation of the designated facility’s standard of performance;

(4) The information listed in 40 CFR 60.5740a(a)(4)(i) through (iv) as applicable; and

(5) Supporting material, including any other materials requested by the Department or otherwise necessary to support the Department’s review and determination of standards of performance.

(F) Monitoring, Recordkeeping, and Reporting Requirements. Each designated facility must comply with the following requirements in accordance with the compliance schedule set forth in the designated facility’s construction permit referenced in paragraph (D) of this subpart:

(1) You must either:

(a) Monitor and report emission and electricity generation data according to 40 CFR Part 75; or

(b) Implement an alternative monitoring, recordkeeping, and reporting program that meets the requirements of 40 CFR 60.5785a(a)(2). A designated facility implementing such a program shall conduct all alternative monitoring, recordkeeping, and reporting in accordance with specific requirements set forth in the construction permit referenced in paragraph (D) of this subpart.

(2) You must keep records for a minimum of five (5) years from the date the record is used to determine compliance with a standard of performance requirement. Each record must be in a form suitable and readily available for expeditious review.

(G) For the Department to consider a revised standard of performance for a designated facility, such designated facility shall submit to the Department, either of its own accord or upon Department request, the information specified in paragraph (E) of this subpart.

(H) Definitions of terms used in this subpart are set forth in 40 CFR 60.5805a, except as otherwise provided in paragraph (C).

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

**Regulation 61-62.63, Subpart A, shall be revised as follows:**

**Subpart A - “General Provisions”**

The provisions of 40 Code of Federal Regulations (CFR) Part 63 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]
Revision	Vol. 69	January 2, 2004	[69 FR 130]
Revision	Vol. 69	February 3, 2004	[69 FR 5038]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 69	April 19, 2004	[69 FR 20968]
Revision	Vol. 69	April 22, 2004	[69 FR 21737]
Revision	Vol. 69	April 26, 2004	[69 FR 22602]
Revision	Vol. 69	June 15, 2004	[69 FR 33474]
Revision	Vol. 69	July 30, 2004	[69 FR 45944]
Revision	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	April 15, 2005	[70 FR 19992]
Revision	Vol. 70	May 20, 2005	[70 FR 29400]
Revision	Vol. 70	October 12, 2005	[70 FR 59402]
Revision	Vol. 71	February 16, 2006	[71 FR 8342]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	July 28, 2006	[71 FR 42898]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 72	January 3, 2007	[72 FR 26]
Revision	Vol. 72	January 23, 2007	[72 FR 2930]
Revision	Vol. 72	July 16, 2007	[72 FR 38864]

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Revision	Vol. 72	October 29, 2007	[72 FR 61060]
Revision	Vol. 72	November 16, 2007	[72 FR 64860]
Revision	Vol. 72	December 26, 2007	[72 FR 73180]
Revision	Vol. 72	December 28, 2007	[72 FR 74088]
Revision	Vol. 73	January 2, 2008	[73 FR 226]
Revision	Vol. 73	January 9, 2008	[73 FR 1738]
Revision	Vol. 73	January 10, 2008	[73 FR 1916]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	February 7, 2008	[73 FR 7210]
Revision	Vol. 73	March 7, 2008	[73 FR 12275]
Revision	Vol. 73	July 23, 2008	[73 FR 42978]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	June 25, 2009	[74 FR 30366]
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	February 17, 2011	[76 FR 9450]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	April 17, 2012	[77 FR 22848]
Revision	Vol. 77	September 11, 2012	[77 FR 55698]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 78	February 1, 2013	[78 FR 7488]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	March 27, 2014	[79 FR 17340]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 80	September 18, 2015	[80 FR 56699]
Revision	Vol. 80	October 15, 2015	[80 FR 62389]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]
Revision	Vol. 83	October 15, 2018	[83 FR 51842]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]
<u>Revision</u>	<u>Vol. 84</u>	<u>February 28, 2019</u>	<u>[84 FR 6676]</u>
<u>Revision</u>	<u>Vol. 84</u>	<u>March 4, 2019</u>	<u>[84 FR 7682]</u>
<u>Revision</u>	<u>Vol. 84</u>	<u>March 15, 2019</u>	<u>[84 FR 9590]</u>

**Regulation 61-62.63, Subpart HHHH, shall be revised as follows:**

**Subpart HHHH - “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”**

The provisions of 40 CFR Part 63 Subpart HHHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart HHHH</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	April 11, 2002	[67 FR 17824]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	February 28, 2019	[84 FR 6676]

**Regulation 61-62.63, Subpart NNNN, shall be revised as follows:**

**Subpart NNNN - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”**

The provisions of 40 CFR Part 63 Subpart NNNN, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart NNNN</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart OOOO, shall be revised as follows:**

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

The provisions of 40 CFR Part 63 Subpart OOOO, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart OOOO</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 69	August 4, 2004	[69 FR 47001]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	May 24, 2006	[71 FR 29792]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart QQQQ, shall be revised as follows:**

**Subpart QQQQ - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”**

The provisions of 40 CFR Part 63 Subpart QQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart QQQQ</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 4, 2019	[84 FR 7682]

**Regulation 61-62.63, Subpart RRRR, shall be revised as follows:**

**Subpart RRRR - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”**

The provisions of 40 CFR Part 63 Subpart RRRR, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart RRRR</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart TTTT, shall be revised as follows:**

**Subpart TTTT - “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”**

The provisions of 40 CFR Part 63 Subpart TTTT, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart TTTT</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 70	February 7, 2005	[70 FR 6355]
Revision	Vol. 84	February 12, 2019	[84 FR 3308]

**Regulation 61-62.63, Subpart JJJJ title shall be revised as follows:**

**Subpart JJJJ - “National Emission Standards ~~For~~ Hazardous Air Pollutants ~~For~~ Brick ~~And~~ Structural Clay Products Manufacturing”**

**Regulation 61-62.63, Subpart KKKKK, shall be revised as follows:**

**Subpart KKKKK - “National Emission Standards ~~Førfø~~ Hazardous Air Pollutants ~~Førfø~~ Clay Ceramics Manufacturing”**

The provisions of 40 CFR Part 63, Subpart KKKKK, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart KKKKK</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 68	May 16, 2003	[67 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]
Revision	Vol. 71	April 20, 2006	[71 FR 20445]
Revision	Vol. 71	June 23, 2006	[71 FR 36014]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 84	November 1, 2019	[84 FR 58601]

**Regulation 61-62.63, Subpart QQQQQ, shall be revised as follows:**

**Subpart QQQQQ - “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”**

The provisions of 40 CFR Part 63 Subpart QQQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart QQQQQ</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 67	October 18, 2002	[67 FR 64498]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	February 8, 2019	[84 FR 2742]

**Regulation 61-62.63, Subpart CCCCC title shall be revised as follows:**

**Subpart CCCCC - “National Emission Standards ~~Førfø~~ Hazardous Air Pollutants ~~Førfø~~ Source Category: Gasoline Dispensing Facilities”**

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

**Regulation 61-62.68.1 shall be revised as follows:**

~~This part~~ Regulation 61-62.68 sets forth the list of regulated substances and thresholds, the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, and the ~~S~~state accidental release prevention programs approved under ~~s~~Section 112(r) of the Clean Air Act. The list of substances, threshold quantities, and accident prevention regulations promulgated under ~~this part~~ Regulation 61-62.68 do not limit in any way the general duty provisions under ~~s~~Section 112(r)(1) of the Clean Air Act.

**Regulation 61-62.68.3 shall be revised as follows:**

Terms used in ~~this part~~ Regulation 61-62.68 that are not defined below or in Regulation 61-62.1, Section I, have the meaning given to them in the Clean Air Act and in 40 CFR Part 68, sSubpart A.

(a) “**Accidental R**elease” means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) “**Administrative controls**” mean written procedural mechanisms used for hazard control.

(c) **Administrator** means the administrator of the U.S. Environmental Protection Agency.

(ed) “**AIChE/CCPS**” means the American Institute of Chemical Engineers/-Center for Chemical Process Safety.

(de) “**API**” means the American Petroleum Institute.

(ef) “**Article**” means a manufactured item, as defined under 29 CFR 1910.1200(b), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.

(fg) “**ASME**” means the American Society of Mechanical Engineers.

(gh) “**CAS**” means the Chemical Abstracts Service.

(hi) “**Catastrophic release**” means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

(j) **CBI** means confidential business information.

(ik) “**Classified information**” means “classified information” as defined in the Classified Information Procedures Act, 18 U.S.C. App. 3, sSection 1(a) as “any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.”

(jl) “**Condensate**” means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

(km) “**Covered process**” means a process that has a regulated substance present in more than a threshold quantity as determined under Section 68.115.

(hn) “**Crude oil**” means any naturally occurring, unrefined petroleum liquid.

(o) **DOT** means the United States Department of Transportation.

(mp) “**Environmental receptor**” means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than



or equal to the endpoints provided in Section 68.22(a)-, as a result of an accidental release and that can be identified on local U.-S. Geological Survey maps.

(q) **Field gas** means gas extracted from a production well before the gas enters a natural gas processing plant.

~~(r)~~ **“Hot work”** means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

~~(e) “Field gas” means gas extracted from a production well before the gas enters a natural gas processing plant.~~

~~(p)~~ **“Injury”** means any effect on a human that results either from direct exposure to toxic concentrations; radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

(t) **LEPC** means local emergency planning committee as established under 42 U.S.C. 11001(c).

(qu) **Major change** means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

~~(fv) **Mechanical integrity** means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.~~

~~(sw) **Medical treatment** means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.~~

~~(tx) **Mitigation or mitigation system** means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.~~

~~(u) **Natural gas processing plant (gas plant)** means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).~~

~~(vy) **NAICS** means North American Industry Classification System.~~

(z) **Natural gas processing plant (gas plant)** means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

~~(waa) **NFPA** means the National Fire Protection Association.~~

~~(x) **Offsite** means areas beyond the property boundary of the stationary source, and areas within the~~

property boundary to which the public has routine and unrestricted access during or outside business hours.

(~~ycc~~) “**OSHA**” means the U.S. Occupational Safety and Health Administration.

(~~zdd~~) “**Owner or operator**” means any person who owns, leases, operates, controls, or supervises a stationary source.

(~~aaec~~) “**Petroleum refining process unit**” means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; separating petroleum; or separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

(~~bff~~) “**Population**” means the public.

(~~eegg~~) “**Process**” means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

(~~edhh~~) “**Produced water**” means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

(~~eeii~~) “**Public**” means any person except employees or contractors at the stationary source.

(~~ffjj~~) “**Public receptor**” means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

(~~ggkk~~) “**Regulated substance**” means any substance listed pursuant to ~~s~~Section 112(r)(3) of the Clean Air Act as amended, in Section 68.130.

(~~hhll~~) “**Replacement in kind**” means a replacement that satisfies the design specifications.

(~~mm~~) **Retail facility** means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(~~inn~~) “**RMP**” means the risk management plan required under ~~s~~Subpart G ~~of this part~~.

(~~jjoo~~) “**Stationary source**” means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common

control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of Regulation 61-62.68. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 CFR ~~p~~Parts 192, 193, or 195, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. ~~s~~Section 60105. ~~The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part.~~ A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

~~(kkpp)~~ **“Threshold quantity”**<sup>22</sup> means the quantity specified for regulated substances pursuant to ~~s~~Section 112(r)(5) of the Clean Air Act as amended, listed in Section 68.130 and determined to be present at a stationary source as specified in Section 68.115 ~~of this part.~~

~~(Hqq)~~ **“Typical meteorological conditions”**<sup>22</sup> means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

~~(mm)~~ **“USDOT”** means the United States Department of Transportation.

~~(nnr)~~ **“Vessel”**<sup>22</sup> means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

~~(ooss)~~ **“Worst-case release”**<sup>22</sup> means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 68.22(a).

~~“Retail facility” means a stationary source at which more than one half of the income is obtained from direct sales to end users or at which more than one half of the fuel sold, by volume, is sold through a cylinder exchange program.~~

**Regulation 61-62.68.10 shall be revised as follows:**

~~(a) An~~ Except as provided in paragraphs (b) through (f) of this section, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under Section 68.115, shall comply with the requirements of ~~this part~~ Regulation 61-62.68 no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under Section 68.130; ~~or~~

(3) The date on which a regulated substance is first present above a threshold quantity in a process; or

(4) For any revisions to Regulation 61-62.68 that incorporate revisions to 40 CFR Part 68, the effective date of the final rule that revises 40 CFR Part 68.

(b) By March 14, 2018, the owner or operator of a stationary source shall comply with the emergency

response coordination activities in Section 68.93, as applicable.

(c) Within three (3) years of when the owner or operator determines that the stationary source is subject to the emergency response program requirements of Section 68.95, pursuant to Section 68.90(a), the owner or operator must develop and implement an emergency response program in accordance with Section 68.95.

(d) By December 19, 2023, the owner or operator shall have developed plans for conducting emergency response exercises in accordance with provisions of Section 68.96, as applicable.

(e) The owner or operator of a stationary source shall comply with the public meeting requirement in Section 68.210(b) within ninety (90) days of any RMP reportable accident at the stationary source with known offsite impacts specified in Section 68.42(a), that occurs after March 15, 2021.

(f) After December 19, 2024, for any RMP initially submitted as required by Section 68.150(b)(2) or (3) or submitted as an update required by Section 68.190, the owner or operator shall comply with the following risk management plan provisions of Subpart G:

(1) Reporting a public meeting after an RMP reportable accident under Section 68.160(b)(21);

(2) Reporting emergency response program information under Section 68.180(a)(1);

(3) Reporting emergency response program information under Section 68.180(a)(2) and (3), as applicable; and,

(4) Reporting emergency response program and exercises information under Section 68.180(b), as applicable. The owner or operator shall submit dates of the most recent notification, field, and tabletop exercises in the RMP, for exercises completed as required under Section 68.96 at the time the RMP is either submitted under Section 68.150(b)(2) or (3), or is updated under Section 68.190.

(bg) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 68.12(b) if it meets all of the following requirements:

(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following offsite:

(i) Death;

(ii) Injury; or

(iii) Response or restoration activities for an exposure of an environmental receptor;

(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and Section 68.25 is less than the distance to any public receptor, as defined in Section 68.30; and

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(eh) Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of either paragraph (bg) or paragraph (ei) of this section.

(ei) Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of paragraph (bg) of this section, and if either of the following conditions is met:

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or

(2) The process is subject to the OSHA process safety management standard, 29 CFR 1910.119.

(ej) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 68.190.

(ek) The provisions of ~~this part~~ Regulation 61-62.68 shall not apply to an Outer Continental Shelf (OCS) source, as defined in 40 CFR 55.2.

**Regulation 61-62.68.12 shall be revised as follows:**

(a) General requirements. The owner or operator of a stationary source subject to ~~this part~~ Regulation 61-62.68 shall submit a single RMP, as provided in ~~Secs.~~ Sections 68.150 to 68.185. The RMP shall include a registration that reflects all covered processes.

(b) Program 1 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 68.10(bg), shall:

(1) Analyze the worst-case release scenario for the process(es), as provided in Section 68.25; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 68.22(a); and submit in the RMP the worst-case release scenario as provided in Section 68.165;

(2) Complete the five-year accident history for the process as provided in Section 68.42 ~~of this part~~ and submit it in the RMP as provided in Section 68.168;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and

(4) Certify in the RMP the following: “Based on the criteria in ~~Section 40 CFR~~ 68.10, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program rule (~~See 40 CFR~~ 68.10(bg)(1)). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. [Signature, title, date signed].”

(c) Program 2 requirements. In addition to meeting the requirements of paragraph (a) of this section, the

owner or operator of a stationary source with a process subject to Program 2, as provided in Section 68.10(eh), shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in ~~Sees.~~Sections 68.20 through 68.42;

(3) Implement the Program 2 prevention steps provided in ~~Sees.~~Sections 68.48 through 68.60 or implement the Program 3 prevention steps provided in ~~Sees.~~Sections 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

~~(45) Develop and implement an emergency response program, and conduct exercises, as provided in Sees.~~Sections 68.90 to 68.95~~96~~; and

~~(56) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 68.170.~~

(d) Program 3 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 68.10(di) shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in ~~Sees.~~Sections 68.20 through 68.42;

(3) Implement the prevention requirements of ~~Sees.~~Sections 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

~~(45) Develop and implement an emergency response program, and conduct exercises, as provided in Sees.~~Sections 68.90 to 68.95 ~~of this part~~96; and

~~(56) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.~~

**Regulation 61-62.68.28(e)(2) shall be revised as follows:**

(2) Failure scenarios identified under ~~Sees.~~Sections 68.50 or 68.67.

**Regulation 61-62.68.42(b)(11) shall be revised as follows:**

(11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with ~~See.~~Section 68.168.

**Regulation 61-62.68.48(a)(1) shall be revised as follows:**

(1) ~~Material~~ Safety Data Sheets (SDS) that meet the requirements of 29 CFR 1910.1200(g);

**Regulation 61-62.68.48(b) shall be revised as follows:**

(b) The owner or operator shall ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Compliance with ~~F~~ederal or ~~S~~tate regulations that address industry-specific safe design or with industry-specific design codes and standards may be used to demonstrate compliance with this paragraph.

**Regulation 61-62.68.56(d) shall be revised as follows:**

(d) The owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

**Regulation 61-62.68.58(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this ~~s~~ubpart at least every three years to verify that the procedures and practices developed under ~~the rule~~this Subpart are adequate and are being followed.

**Regulation 61-62.68.60 shall be revised as follows:**

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release ~~of a regulated substance~~.

(b) The owner or operator shall initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.

(c) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

~~(c)~~ (d) The owner or operator shall prepare a summary report at the conclusion of the investigation which includes at a minimum:

- (1) Date of incident;
- (2) Date investigation began;
- (3) A description of the incident;
- (4) The factors that contributed to the incident; and;
- (5) Any recommendations resulting from the investigation.

~~(d)~~ (e) The owner or operator shall promptly address and resolve the investigation findings and recommendations. Resolutions and corrective actions shall be documented.

~~(e)~~ (f) The owner or operator shall ensure that the findings are reviewed with all affected personnel whose job tasks are affected by the findings.

(fg) The owner or operator shall retain the incident investigation summaries reports for five years.

**Regulation 61-62.68.65(a) shall be revised as follows:**

(a) ~~In accordance with the schedule set forth in Section 68.67, the~~ The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

**Regulation 61-62.68.65(b) shall be revised as follows:**

(b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:

- (1) Toxicity information;
- (2) Permissible exposure limits;
- (3) Physical data;
- (4) Reactivity data;
- (5) Corrosivity data;
- (6) Thermal and chemical stability data; and
- (7) Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.

~~Material~~-Safety Data Sheets (SDS) meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

**Regulation 61-62.68.67(c)(2) shall be revised as follows:**

(2) The identification of any previous incident which had a likely potential for catastrophic consequences;

**Regulation 61-62.68.67(d) shall be revised as follows:**

(d) ~~A~~ The process hazard analysis shall be performed by a team with expertise in engineering and process operations shall perform, and the process hazard analysis. The team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

**Regulation 61-62.68.67(f) shall be revised as follows:**

(f) ~~A team meeting the requirements in paragraph (d) of this section shall, at~~ At least every five (5) years after the completion of the initial process hazard analysis, ~~updated and revalidate~~ the process hazard



analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph.

**Regulation 61-62.68.73(d)(3) shall be revised as follows:**

(3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

**Regulation 61-62.68.79(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this Subpart at least every three years to verify that ~~the~~ procedures and practices developed under ~~the rule~~ this Subpart are adequate and are being followed.

**Regulation 61-62.68.81(a) shall be revised as follows:**

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release ~~of a regulated substance~~.

**Regulation 61-62.68.90(a) shall be revised as follows:**

(a) Responding stationary source. Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Sections 68.93, 68.95, and 68.96.

**Regulation 61-62.68.90(b) shall be revised as follows:**

(b) Non-responding stationary source. The owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with Section 68.95 ~~of this part~~ provided that ~~they meet the following~~:

(1) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003;

(2) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the owner or operator has coordinated response actions with the local fire department; ~~and~~

(3) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

(4) The owner or operator performs the annual emergency response coordination activities required under Section 68.93; and

(5) The owner or operator performs the annual notification exercises required under Section 68.96(a).

**Regulation 61-62.68.91-94 shall be revised as follows:**

**Section 68.91-9492 [Reserved]**

**Regulation 61-62.68.93 shall be added in alpha-numeric order as follows:**

**Section 68.93 Emergency response coordination activities.**

The owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.

(a) Coordination shall occur at least annually, and more frequently if necessary, to address changes: At the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

(b) Coordination shall include providing to the local emergency planning and response organizations: The stationary source's emergency response plan if one exists; emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan. For responding stationary sources, coordination shall also include consulting with local emergency response officials to establish appropriate schedules and plans for field and tabletop exercises required under Section 68.96(b). The owner or operator shall request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss those materials.

(c) The owner or operator shall document coordination with local authorities, including: The names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

(d) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

**Regulation 61-62.68.94 shall be added in alpha-numeric order as follows:**

**Section 68.94 [Reserved]**

**Regulation 61-62.68.95(a)(1)(i) shall be revised as follows:**

(i) Procedures for informing the public and the appropriate federal, state, and local emergency response agencies about accidental releases;

**Regulation 61-62.68.95(a)(4) shall be revised as follows:**

(4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes. The owner or operator shall review and update the plan as appropriate based on changes at the stationary source or new information obtained from coordination activities, emergency response exercises, incident investigations, or other

available information, and ensure that employees are informed of the changes.

**Regulation 61-62.68.96 shall be added in alpha-numeric order as follows:**

**Section 68.96 Emergency response exercises.**

(a) Notification exercises. At least once each calendar year, the owner or operator of a stationary source with any Program 2 or Program 3 process shall conduct an exercise of the stationary source's emergency response notification mechanisms required under Section 68.90(b)(3) or Section 68.95(a)(1)(i), as appropriate, before December 19, 2024, and annually thereafter. Owners or operators of responding stationary sources may perform the notification exercise as part of the tabletop and field exercises required in paragraph (b) of this section. The owner/operator shall maintain a written record of each notification exercise conducted over the last five (5) years.

(b) Emergency response exercise program. The owner or operator of a stationary source subject to the requirements of Section 68.95 shall develop and implement an exercise program for its emergency response program, including the plan required under Section 68.95(a)(1). Exercises shall involve facility emergency response personnel and, as appropriate, emergency response contractors. When planning emergency response field and tabletop exercises, the owner or operator shall coordinate with local public emergency response officials and invite them to participate in the exercise. The emergency response exercise program shall include:

(1) Emergency response field exercises. The owner or operator shall conduct field exercises involving the simulated accidental release of a regulated substance (i.e., toxic substance release or release of a regulated flammable substance involving a fire and/or explosion).

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for field exercises.

(ii) Scope. Field exercises shall involve tests of the source's emergency response plan, including deployment of emergency response personnel and equipment. Field exercises should include: Tests of procedures to notify the public and the appropriate federal, state, and local emergency response agencies about an accidental release; tests of procedures and measures for emergency response actions including evacuations and medical treatment; tests of communications systems; mobilization of facility emergency response personnel, including contractors, as appropriate; coordination with local emergency responders; emergency response equipment deployment; and any other action identified in the emergency response program, as appropriate.

(2) Tabletop exercises. The owner or operator shall conduct a tabletop exercise involving the simulated accidental release of a regulated substance.

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for tabletop exercises, and shall conduct a tabletop exercise before December 21, 2026, and at a minimum of at least once every three (3) years thereafter.

(ii) Scope. Tabletop exercises shall involve discussions of the source's emergency response plan. The exercise should include discussions of: Procedures to notify the public and the appropriate federal, state, and local emergency response agencies; procedures and measures for emergency response including evacuations and medical treatment; identification of facility emergency response personnel and/or

contractors and their responsibilities; coordination with local emergency responders; procedures for emergency response equipment deployment; and any other action identified in the emergency response plan, as appropriate.

(3) Documentation. The owner or operator shall prepare an evaluation report within ninety (90) days of each field and tabletop exercise. The report should include: A description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.

(c) Alternative means of meeting exercise requirements. The owner or operator may satisfy the requirement to conduct notification, field and/or tabletop exercises through:

(1) Exercises conducted to meet other federal, state, or local exercise requirements, provided the exercises meet the requirements of paragraphs (a) and/or (b) of this section, as appropriate.

(2) Response to an accidental release, provided the response includes the actions indicated in paragraphs (a) and/or (b) of this section, as appropriate. When used to meet field and/or tabletop exercise requirements, the owner or operator shall prepare an after-action report comparable to the exercise evaluation report required in paragraph (b)(3) of this section, within ninety (90) days of the incident.

**Regulation 61-62.68.96-99 shall be revised as follows:**

**Section 68.9697-99 [Reserved]**

**Regulation 61-62.68.115(b)(2)(i) shall be revised as follows:**

(i) General provision. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether more than a threshold quantity of the regulated substance is present at the stationary source. Except as provided in paragraph (b)(2)-(ii) and (b)(2)(iii) of this section, if the concentration of the substance is one percent or greater by weight of the mixture, then, for purposes of determining whether a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Quincy, MA, 1996 ~~(available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101).~~ Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-08, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, National Fire Protection Association, Quincy, MA, 1996 ~~(available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101).~~ Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and

1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, \_\_\_\_\_ or \_\_\_\_\_ go \_\_\_\_\_ to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). The owner or operator shall document the National Fire Protection Association flammability hazard rating.

**Regulation 61-62.68.125 shall be revised as follows:**

Agricultural nutrients. Ammonia used as an agricultural nutrient, when held by farmers, is exempt from all provisions of ~~this part~~ Regulation 61-62.68.

**Regulation 61-62.68.126 shall be revised as follows:**

~~Flammable substances used as fuel or held for sale as fuel at retail facilities.~~ Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities. A flammable substance listed in Tables 3 and 4 of Section 68.130 is nevertheless excluded from all provisions of ~~this part~~ Regulation 61-62.68 when the substance is used as a fuel or held for sale as a fuel at a retail facility.

**Regulation 61-62.68.130(a) shall be revised as follows:**

(a) Regulated toxic and flammable substances under ~~s~~Section 112(r) of the Clean Air Act are the substances listed in Tables 1, 2, 3, and 4. Threshold quantities for listed toxic and flammable substances are specified in the tables.

**Regulation 61-62.68.150(a) shall be revised as follows:**

(a) The owner or operator shall submit a single RMP that includes the information required by ~~Sees.~~ Sections 68.155 through 68.185 for all covered processes. The RMP shall be submitted in ~~a~~the method and format to the central point ~~as~~-specified by EPA as of the date of submission.

**Regulation 61-62.68.150(c) shall be revised as follows:**

(c) ~~The~~ owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by ~~See.~~ Sections 68.160(b)(6) and (14) by June 21, 2004, in the manner specified by EPA prior to that date. Any such submission shall also include the information required by ~~See.~~ Sections 68.160(b)(20) (indicating that the submission is a correction to include the information required by ~~See.~~ Sections 68.160(b)(6) and (14) or an update under ~~See.~~ Sections 68.190).

**Regulation 61-62.68.150(d) shall be revised as follows:**

(d) RMPs submitted under this section shall be updated and corrected in accordance with ~~Sees.~~ Sections 68.190 and 68.195.

**Regulation 61-62.68.151(a) shall be revised as follows:**

(a) Except as provided in paragraph (b) of this section, an owner or operator of a stationary source required to report or otherwise provide information under ~~this part~~ Regulation 61-62.68 may make a claim of confidential business information for any such information that meets the criteria set forth in ~~40 CFR~~ CFR 2.301.

**Regulation 61-62.68.151(b)(1) shall be revised as follows:**

(1) Registration data required by Section 68.160(b)(1) through (b)(6) and (b)(8), (b)(10) through (b)(13), and (b)(21), and NAICS code and Program level of the process set forth in Section 68.160(b)(7);

**Regulation 61-62.68.151(c)(2) shall be revised as follows:**

(2) A sanitized (redacted) copy of the RMP, with the notation ~~“CBI”~~–“CBI” substituted for the information claimed confidential, except that a generic category or class name shall be substituted for any chemical name or identity claimed confidential; and

**Regulation 61-62.68.160(b) shall be revised as follows:**

(b) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

(2) The stationary source Dun and Bradstreet number;

(3) Name and Dun and Bradstreet number of the corporate parent company;

(4) The name, telephone number, and mailing address of the owner or operator;

(5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;

(6) The name, title, telephone number, 24 - hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;

(7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;

(8) The stationary source EPA identifier;

(9) The number of full-time employees at the stationary source;

(10) Whether the stationary source is subject to 29 CFR 1910.119;

(11) Whether the stationary source is subject to 40 CFR Part 355;

(12) If the stationary source has a CAA Title V operating permit, the permit number;

(13) The date of the last safety inspection of the stationary source by a ~~F~~federal, ~~S~~state, or local government agency and the identity of the inspecting entity;

(14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);

- (15) Source or Parent Company E-mail Address (Optional);
- (16) Source Homepage address (Optional);
- (17) Phone number at the source for public inquiries (Optional);
- (18) Local Emergency Planning Committee (Optional);
- (19) OSHA Voluntary Protection Program status (Optional); ~~and~~
- (20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:
  - (i) Updates and re-submissions required under ~~See-Section~~ 68.190(b);
  - (ii) Corrections under ~~See-Section~~ 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in ~~See-Section~~ 68.190(b);
  - (iii) De-registrations required under ~~See-Section~~ 68.190(c); and
  - (iv) Withdrawals of an RMP for any facility that was erroneously considered subject to ~~this part~~ 68Regulation 61-62.68.
- (21) Whether a public meeting has been held following an RMP reportable accident, pursuant to Section 68.210(b).

**Regulation 61-62.68.165(b)(5) shall be revised as follows:**

- (5) Scenario (explosion, fire, toxic gas release, or liquid spill and ~~vaporization~~ evaporation);

**Regulation 61-62.68.168 shall be revised as follows:**

The owner or operator shall submit in the RMP the information ~~required by~~ provided in Section 68.42(b) on each accident covered by Section 68.42(a).

**Regulation 61-62.68.170(j) shall be revised as follows:**

- (j) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.

**Regulation 61-62.68.175(e) shall be revised as follows:**

- (e) The date of completion of the most recent Process Hazard Analysis (PHA) or update and the technique used.

**Regulation 61-62.68.175(l) shall be revised as follows:**

- (l) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation;

**Regulation 61-62.68.180 shall be revised as follows:**

**Section 68.180 Emergency response program and exercises.**

(a) The owner or operator shall provide in the RMP ~~the following information:~~

~~(1) Whether he or she has a written emergency response plan; Name, phone number, and email address of local emergency planning and response organizations with which the stationary source last coordinated emergency response efforts, pursuant to Section 68.10(g)(3) or Section 68.93;~~

~~(2) Whether the plan includes specific actions to be taken in response to an accidental release of a regulated substance; The date of the most recent coordination with the local emergency response organizations, pursuant to Section 68.93; and~~

~~(3) Whether the plan includes procedures for informing the public and local agencies responsible for responding to accidental releases; A list of federal or state emergency plan requirements to which the stationary source is subject.~~

~~(4) Whether the plan includes information on emergency health care;~~

~~(5) The date of the most recent review or update of the emergency response plan; and~~

~~(6) The date of the most recent emergency response training for employees.~~

(b) The owner or operator shall ~~provide the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.~~ identify in the RMP whether the facility is a responding stationary source or a non-responding stationary source, pursuant to Section 68.90.

(1) For non-responding stationary sources, the owner or operator shall identify:

(i) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, whether the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003, pursuant to Section 68.90(b)(1);

(ii) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the date of the most recent coordination with the local fire department, pursuant to Section 68.90(b)(2);

(iii) What mechanisms are in place to notify the public and emergency responders when there is a need for emergency response; and

(iv) The date of the most recent notification exercise, as required in Section 68.96(a).

(2) For responding stationary sources, the owner or operator shall identify:

(i) The date of the most recent review and update of the emergency response plan, pursuant to Section 68.95(a)(4);

(ii) The date of the most recent notification exercise, as required in Section 68.96(a);



(iii) The date of the most recent field exercise, as required in Section 68.96(b)(1); and

(iv) The date of the most recent tabletop exercise, as required in Section 68.96(b)(2).

~~(e) The owner or operator shall list other Federal or State emergency plan requirements to which the stationary source is subject.~~

**Regulation 61-62.68.190(a) shall be revised as follows:**

(a) The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in a the method and format to a the central point specified by EPA as of the date of submission.

**Regulation 61-62.68.195(a) shall be revised as follows:**

(a) New accident history information—For any accidental release meeting the five-year accident history reporting criteria of ~~See Section~~ Section 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under ~~Sees Sections~~ Sections 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under ~~See Section~~ Section 68.190, whichever is earlier.

**Regulation 61-62.68.195(b) shall be revised as follows:**

(b) Emergency contact information—Beginning June 21, 2004, within one month of any change in the emergency contact information required under ~~See Section~~ Section 68.160(b)(6), the owner or operator shall submit a correction of that information.

**Regulation 61-62.68.200 shall be revised as follows:**

The owner or operator shall maintain records supporting the implementation of ~~this part~~ Regulation 61-62.68 at the stationary source for five years, unless otherwise provided in ~~sSubpart D of this part~~.

**Regulation 61-62.68.210(a) shall be revised as follows:**

(a) RMP availability. The RMP required under ~~sSubpart G of this part~~ shall be available to the public under 42 U.S.C. 7414(c) and 40 CFR Part 1400.

**Regulation 61-62.68.210(b) shall be revised as follows:**

(b) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under Section 68.42(b), no later than ninety (90) days after any RMP reportable accident at the stationary source with any known offsite impact specified in Section 68.42(a).

~~(b)~~ (c) Classified and restricted information. The disclosure of ~~classified~~ classified or restricted information classified or restricted by the Department of Defense or other Federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that ~~classified or restricted~~ information.

**Regulation 61-62.68.215(a) shall be revised as follows:**

(a) These requirements apply to any stationary source subject to Regulation 61-62.68 and Regulation 61-62.70. The Regulation 61-62.70 permit for the stationary source shall contain:

(1) A statement listing ~~this part~~Regulation 61-62.68 as an applicable requirement;

(2) Conditions that require the source owner or operator to submit:

(i) A compliance schedule for meeting the requirements of ~~this part~~Regulation 61-62.68 by the date provided in Sections 68.10(a) through (f) and 68.96(a) and (b)(2)(i), or;

(ii) As part of the compliance certification submitted under ~~s~~Section 61-62.70.6(c)(5), a certification statement that the source is in compliance with all requirements of ~~this part~~Regulation 61-62.68, including the registration and submission of the RMP.

**Regulation 61-62.68.215(c) shall be revised as follows:**

(c) For Regulation 61-62.70 permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in paragraph (a) of this section, the owner or operator or the Department shall initiate permit revision or reopening according to the procedures of ~~s~~Section 61-62.70.7 to incorporate the terms and conditions consistent with paragraph (a) of this section.

**Regulation 61-62.68.215(d) and (e) shall be revised as follows:**

(d) The Department may delegate the authority to implement and enforce the requirements of paragraph (e) of this section to a state or local agency or agencies other than the Department. An up-to-date copy of any delegation instrument shall be maintained by the Department. The state may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of paragraph (e) of this section.

~~(d)~~ The Department will, at a minimum:

(1) Verify that the source owner or operator has registered and submitted an RMP or a revised plan when required by ~~this part~~Regulation 61-62.68;

(2) Verify that the source owner or operator has submitted a source certification or in its absence has submitted a compliance schedule consistent with paragraph (a)(2) of this section;

(3) For some or all of the sources subject to this section, use one or more mechanisms such as, but not limited to, a completeness check, source audits, record reviews, or facility inspections to ensure that permitted sources are in compliance with the requirements of ~~this part~~Regulation 61-62.68; and

(4) Initiate enforcement action based on paragraphs ~~(d)~~(1) and ~~(d)~~(2) of this section as appropriate.

**Regulation 61-62.68.220 shall be revised as follows:**

~~(a) The State may partially delegate the authority to implement and enforce the requirements of this section to a State agency or agencies other than the Department. An up to date copy of any delegation instrument will be maintained by the Department. The Department may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of this section.~~

~~(b)~~a In addition to inspections for the purpose of regulatory development and enforcement of the Act, the

Department, ~~or the agency designated by delegation or agreement under paragraph (a) of this section,~~ will periodically audit RMPs submitted under ~~sSubpart G of this part~~ to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with ~~sSubpart G of this part~~.

(~~eb~~) The Department, ~~or the agency designated by delegation or agreement,~~ will select stationary sources for audits based on any of the following criteria:

- (1) Accident history of the stationary source;
- (2) Accident history of other stationary sources in the same industry;
- (3) Quantity of regulated substances present at the stationary source;
- (4) Location of the stationary source and its proximity to the public and environmental receptors;
- (5) The presence of specific regulated substances;
- (6) The hazards identified in the RMP; and
- (7) A plan providing for neutral, random oversight.

(~~ec~~) Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary protection program shall be exempt from audits under paragraphs ~~(eb)(2)~~ and ~~(eb)(7)~~ of this section.

(~~ed~~) The owner or operator of a stationary source subject to ~~this part~~ Regulation 61-62.68 shall provide the Department, ~~or the agency designated by delegation or agreement,~~ access to the stationary source, supporting documentation, and any area where an accidental release could occur.

(~~ee~~) Based on the audit, the Department, ~~or the agency designated by delegation or agreement,~~ may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP meets the criteria of ~~sSubpart G of this part~~. The preliminary determination ~~will~~ shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/-CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and ~~will~~ shall include a timetable for their implementation.

(~~ef~~) Written response to a preliminary determination.

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph (~~ee~~) of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) The owner or operator shall provide to the Department the written response ~~in accordance with under paragraph (gf)(1) to the Department, or the agency designated by delegation or agreement,~~ within ninety (90) days of ~~issuance~~ the issue of the preliminary determination or a shorter period of time as the Department, ~~or the agency designated by delegation or agreement,~~ specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department, ~~or the agency designated~~

~~by delegation or agreement~~, may provide in writing additional time for the response to be received.

(~~hg~~) After providing the owner or operator an opportunity to respond under paragraph (~~gf~~) of this section, the Department, ~~or the agency designated by delegation or agreement~~, may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph (~~fe~~) of this section or may adopt or modify the substitute revisions provided in the response under paragraph (~~gf~~) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph (~~gf~~) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.

(~~hh~~) Thirty (30) days after completion of the actions detailed in the implementation schedule set in the final determination under paragraph (~~hg~~) of this section, the owner or operator shall be in violation of ~~sSubpart G of this part~~ and this section unless the owner or operator revises the RMP prepared under ~~sSubpart G of this part~~ as required by the final determination, and submits the revised RMP as required under Section 68.150.

(~~ji~~) The public shall have access to the preliminary determinations, responses, and final determinations under this section in a manner consistent with Section 68.210.

(~~kj~~) Nothing in this section shall preclude, limit, or interfere in any way with the authority of EPA, the Department, ~~or the agency designated by delegation or agreement~~, to exercise its enforcement, investigatory, and information gathering authorities concerning ~~this part~~ Regulation 61-62.68 under other ~~Sstate or Ffederal Sstatutes~~.

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

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

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

Purpose: The EPA promulgated amendments to national air quality regulations in 2019. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, amends R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2019, through December 31, 2019. Additionally, the Department amends R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The Department also amends R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68 to ensure compliance with those regulations. The Department makes corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

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

Plan for Implementation: Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC

Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these amendments. Additionally, printed copies are 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:

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2019 included revised NSPS rules and NESHAPs for Source Categories. South Carolina is mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The amendments also include amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The revisions also include amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68, to ensure compliance with those regulations. The Department also makes corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

#### DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these revisions. The NSPS, NESHAP, and Chemical Accident Prevention standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. The Department proposes the addition of Subpart UUUUa to R.61-62.60 to facilitate required implementation of the ACE rule. Costs to the regulated community resulting from this amendment are attributable to and required by the federal ACE rule and discussed therein.

The amendments incorporate revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

#### UNCERTAINTIES OF ESTIMATES:

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

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

Adoption of the recent changes in federal regulations through the amendments to R.61-62 will provide continued protection of the environment and public health.

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

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

Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Office of Ocean and Coastal Resource Management

**Re: Public Hearing for Notice of Final Regulation Amending R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, Document No. 4995**

## I. Introduction

The Office of Ocean and Coastal Resource Management proposes the attached Notice of Final Regulation amending R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*. Legal authority resides in S.C. Code Sections 48-39-10 *et seq.*, which instructs the Department of Health and Environmental Control (“Department”) to implement policies to promote the economic and social welfare of the citizens of the state while protecting the sensitive and fragile areas in the coastal counties and promoting sound development of coastal resources. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## II. Facts

1. Pursuant to R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, the Department implements an overall coastal zone management program and permitting process to guide the wise preservation and utilization of coastal resources. The Department proposes new sections R.30-1.D(31) and R.30-12.Q to provide a definition and add project standards for living shorelines. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance. The proposed new sections will allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. The proposed new sections will also help ensure a project’s design will accomplish its intended goals.

2. The Department had a Notice of Drafting published in the April 24, 2020, *State Register*.

3. In 2015, the Department commenced a Living Shoreline initiative in partnership with the South Carolina Department of Natural Resources and South Carolina’s two National Estuarine Research Reserves to evaluate the performance of different living shoreline methods over time and under a range of environmental conditions. As a result of this collaboration, a technical report was produced in 2019 to provide science-based information to guide living shoreline project standards in South Carolina.

4. The Department convened a Living Shorelines Working Group that includes members of federal, state, and local governments, as well as nongovernment organizations (NGOs). The Working Group met four times between February 2017 and May 2019 to provide input on various aspects of living shorelines including regulatory guidance, research, and education and outreach. The Working Group will continue to meet in the future to assist in educational and training opportunities associated with living shorelines.

5. In February 2020, the Department held an inter-agency coordination meeting with key agencies involved in the living shorelines process from permitting through the installation phase. Specific agencies included the U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, NOAA National Marine Fisheries Service, SC Department of Natural Resources, DHEC Shellfish Program, and DHEC Bureau of Water. Representatives from local governments and NGOs also participated in the discussion.

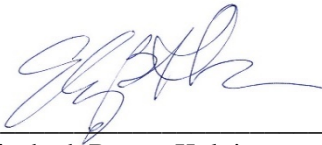
6. Appropriate Department staff conducted an internal review of the proposed amendments on August 21, 2020.

7. The Department had a Notice of Proposed Regulation published in the September 25, 2020, *State Register*. The Department received public comments from four people/organizations by the October 26, 2020, close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.

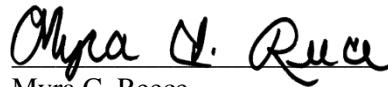
8. After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the September 10, 2020, Board meeting and published in the September 25, 2020, *State Register*. Descriptions of the changes appear in Attachment B, Summary of Public Comments and Department Responses.

### III. Request for Approval

The Office of Ocean and Coastal Resource Management respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, for submission to the General Assembly.



Elizabeth B. von Kolnitz  
Chief, Ocean and Coastal Resource Management



Myra C. Reece  
Director of Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses



**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters***

**December 10, 2020**

Document No. 4995

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 30**

Statutory Authority: 1976 Code Sections 48-39-10 et seq.

30-1. Statement of Policy.

30-12. Specific Project Standards for Tidelands and Coastal Waters.

**Synopsis:**

Pursuant to the S.C. Coastal Zone Management Act, S.C. Code Sections 48-39-10 et seq., the Department of Health and Environmental Control (“Department”) amends R.30-1 and R.30-12 to provide a definition and add project standards for living shorelines. Coastal property owners and other stakeholders in South Carolina have expressed an increased interest in the use of living shorelines as an alternative to hardened erosion control structures within the estuarine environment. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance. New sections R.30-1.D(31) and R.30-12.Q allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. The new sections also help ensure a project’s design will accomplish its intended goals.

The Department developed the new sections using scientific data and monitoring results from existing living shoreline installations in South Carolina and with input from state, local, and federal agencies, the Living Shoreline Working Group, and additional stakeholder engagement.

The Department had a Notice of Drafting published in the April 24, 2020, *South Carolina State Register*.

**Instructions:**

Amend R.30-1, *Statement of Policy*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*, pursuant to each individual instruction provided with the text below.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

30-1. Statement of Policy.

30-12. Specific Project Standards for Tidelands and Coastal Waters.

(Statutory Authority: S.C. Code Sections 48-39-10 et seq.)

**Add New 30-1.D(31), definition of “Living Shoreline” to read as follows and renumber remaining definitions:**

(31) Living Shoreline - A shoreline stabilization approach utilized in intertidal wetland environments that maintains, restores, and/or enhances natural estuarine processes through the strategic placement of native vegetation and/or use of green infrastructure as described in 30-12.Q. Living shorelines promote wetland resiliency and water quality, and enhance the diverse intertidal habitat.

~~(32)~~ Major Development Activity - any construction activity that is not a Minor Development Activity.

~~(323)~~ Marinas - a marina is any of the following:

(a) locked harbor facility;

(b) any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);

(c) any facility which has effective docking space of greater than 250 linear feet or provides moorage for more than 10 boats;

(d) any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats, such as a mooring field; or

(e) a dry stack facility.

~~(334)~~ Master Plan - a document or a map prepared by a developer or a city as a policy guide to decisions about the physical development of the project or community.

~~(345)~~ Minor Development Activity - the construction, maintenance, repair or alteration of any private pier or erosion control structure, the construction of which does not involve dredging.

~~(356)~~ Nonwater-dependent - a facility which cannot demonstrate that dependence on, use of, or access to coastal waters is essential to the functioning of its primary activity.

~~(367)~~ Normal Maintenance and Repair - work performed on any structure within the critical area as part of a routine and ongoing program to maintain the integrity of the structure provided that the structure is still generally intact and functional in its present condition and the work only extends to the original dimensions of the structure. See R.30-5(D).

~~(378)~~ OCRM - the South Carolina Department of Health and Environmental Control’s Office of Ocean and Coastal Resource Management.

~~(389)~~ Offshore Breakwater - a structure which is designed to protect an area from wave action, is generally built parallel to the shore, may or may not be submerged, and may be built singly or in series. Breakwaters may interfere with natural wave action and wave induced currents.

~~(3940)~~ Party - each person or agency named or admitted as a party or properly seeking and entitled to be admitted as a party, including a license or permit applicant.

(401) Planned Development - a development plan which has received local approval for a specified number of dwelling and other units. The siting and size of structures and amenities are specified or restricted within the approval. This term specifically references multi-family or commercial projects not otherwise referenced by the terms master plan or planned unit development.

(412) Planned Unit Development - a residential, commercial, or industrial development, or all three, designed as a unit and approved in writing by local government.

(423) Pool - a structure designed and used for swimming and wading.

(434) Primary Oceanfront Sand Dunes - those dunes that constitute the front row of dunes adjacent to the Atlantic Ocean. For the purposes of establishing the jurisdictional baseline, the dune must have a minimum height of thirty-six (36) inches, as measured vertically from the seaward toe to the crest of the dune. The dune must also form a nearly continuous dune ridge for 500 shore parallel feet and may exhibit minimal breaks such as those resulting from pedestrian or emergency vehicle access points. This dune typically exhibits the presence of stable, native vegetation, and is not scarped, eroded, or overtopped by the highest predicted astronomical tides. However, this dune may be inundated by storm surge which normally accompanies major coastal storm events.

(445) Public Interest - As used within these Rules and Regulations, public interest refers to the beneficial and adverse impacts and effects of a project upon members of the general public, especially residents of South Carolina who are not the owners and/or developers of the project. To the extent that, in the opinion of the Department, the value of such public benefits is greater than the public costs embodied in adverse environmental, economic and fiscal effects, a proposed project may be credited with net public benefits.

(456) Setback Area - the area located between the setback line and the baseline.

(467) Setback Line - the line landward of the baseline that is established at a distance which is forty times the average annual erosion rate as determined by historical and other scientific means and adopted by the Department in the State Comprehensive Beach Management Plan. However, all setback lines shall be established no less than twenty feet landward of the baseline, even in cases where the shoreline has been stable or has experienced net accretion over the past forty years.

(478) Significant Dune - A dune located completely seaward of the setback line, which because of its size and/or location is necessary to protect the beach/dune system of which it is a part.

(489) Special Geographic Circumstances - physical characteristics and land uses of surrounding uplands and waters may warrant additional consideration toward dock sizes. Special Geographic Circumstances identified by OCRM include: tidal ranges of greater than 6 feet; lots with greater than 500 feet of water frontage; and no potential access via dockage from the opposite side of the creek. At the discretion of Department staff, one or more of these circumstances may be applied to dock applications, which may allow up to an additional fifty percent (50%) to what is allowed in 30-12.A(2)(c).

(4950) Standard Erosion Zone - a segment of shoreline which is subject to essentially the same set of coastal processes, has a fairly constant range of profiles and sediment characteristics, and is not directly influenced by tidal inlets or associated inlet shoals.

(501) Tidelands - all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through

artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Department shall have the authority to designate its approximate geographic extent.

(542) Transmittal Form - the official form prepared by the agency with subject matter jurisdiction that is filed with the division notifying it of a request by any person for a contested case hearing.

(523) Water-dependent - a facility which can demonstrate that dependence on, use of, or access to coastal waters is essential to the functioning of its primary activity.

(534) Waterfront property - For purposes of these regulations, waterfront property will generally be defined as upland sites where a straight-line extension of both, generally shore perpendicular, upland property lines reaches a navigable watercourse within 1000' of the marsh critical line. Waterfront property may also be identified via an approved dock master plan where designated corridors differing from upland property line extensions are delineated.

**Add New 30-12.Q to read:**

Q. Living Shorelines: Living shorelines, as defined in 30-1.D, are encouraged as an alternative to traditional hardened erosion control structures in estuarine environments because they provide an environmental benefit and reduce the environmental impacts associated with hardened structures. Living shoreline methods involve planting of native vegetation and/or the installation of other green infrastructure. Green infrastructure includes softer approaches to protecting estuarine shorelines and consists of materials that promote growth of native biological components and maintain continuity of the natural land-water interface. Environmental conditions of a site will be considered in the evaluation of living shoreline applications including whether the type of living shoreline has demonstrated success. Demonstrated success can include an increase in the presence of native vegetation and/or oysters, and an increase in elevation on the landward side of the living shoreline installation.

The following standards are applicable for all living shoreline installations:

(1) Living shorelines are limited to waterfront parcels or lots as defined in R.30-1.D.

(2) Living shorelines must be constructed within extended property boundaries of the permittee for individual projects. One application may be submitted for a living shoreline installation that involves more than one adjoining waterfront parcel. The Department may consider an alternative alignment on a site-by-site basis if site-specific characteristics warrant such an alignment.

(3) Living shorelines must be shore parallel and aligned to conform to the natural contours of the shoreline to the maximum extent feasible.

(4) Living shorelines must not be installed in creeks less than twenty (20) feet in width as measured from marsh vegetation on each side unless special geographic circumstances exist. In all cases, the Department will consider any navigational concerns when evaluating the siting of living shoreline projects.

(5) All living shoreline applications must demonstrate that the installations are designed to promote growth of native biological components. Only native vegetation may be used if the site is planted. Living shoreline installations must be composed of Department approved materials. Approval of materials by the Department may require the applicant to submit a certified letter from the supplier of the source material.

(6) The size and extent of the living shoreline must be limited to that which is reasonable for the intended purpose. All living shoreline applications must demonstrate that the living shoreline is designed and constructed in a manner that:

- (a) does not restrict the reasonable navigation or public use of state lands and waters;
- (b) has minimal effect on natural water movement and in no case prohibits water flow;
- (c) does not prevent movement of aquatic organisms between the waterbody and the shore;
- (d) maintains, restores, and/or enhances shoreline ecological processes;
- (e) maintains continuity of the natural land-water interface; and
- (f) prevents the installation from being displaced which can result in marine debris.

(7) Filling or excavation of vegetated tidelands for the construction of a living shoreline is prohibited. Minimal impacts to non-vegetated tidelands may be permitted to achieve a successful installation only if no feasible alternative exists. Projects with proposed non-vegetated tideland impacts must provide sufficient evidence that no feasible alternative exists and must demonstrate avoidance and minimization of impacts. Construction of living shorelines must not disturb established, live shellfish beds. Living shoreline installations must not be constructed in a manner that results in the creation of upland.

(8) Living shorelines must be maintained by the permittee such that the installation is generally intact and functional. The Department may require the permittee to monitor the living shoreline subject to the critical area permit to determine whether the installation is functioning as intended, results in marine debris, or impedes navigation or public use of state lands and waters.

(9) The Department may require remediation or removal of a living shoreline for reasons that include, but are not limited to:

- (a) the installation is no longer generally intact and functional;
- (b) the installation has resulted in marine debris;
- (c) the installation impedes navigation or public use of state lands and waters; or
- (d) the installation is not accomplishing the intended purpose of the living shoreline.

(10) If a living shoreline is destroyed by natural events, the installation may be rebuilt to its previously permitted configuration so long as reconstruction is completed within one (1) year of the date of the event unless there are extenuating circumstances justifying more time.

### **Fiscal Impact Statement:**

The Department estimates no additional cost incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of these amendments. The Department will use existing staff and resources to implement these amendments.

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

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

DESCRIPTION OF REGULATION: 30-1, Statement of Policy; and 30-12, Specific Project Standards for Tidelands and Coastal Waters.

Purpose: These amendments are based on interest from coastal property owners and other stakeholders in South Carolina who have expressed an increased interest in the use of living shorelines as an alternative to hardened erosion control structures within the estuarine environment. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance. The amendments allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. The new sections also help ensure a project's design will accomplish its intended goals.

Due to this citizen interest, the Department commenced a Living Shoreline initiative and worked in partnership with the South Carolina Department of Natural Resources and South Carolina's two National Estuarine Research Reserves to evaluate the performance of different living shoreline methods over time and under a range of environmental conditions. The Department developed the amendments using scientific data and monitoring results from existing living shoreline installations in South Carolina and with input from state, local, and federal agencies, the Living Shoreline Working Group, and additional stakeholder engagement.

Legal Authority: 1976 Code Sections 48-39-10 et seq.

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

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

The Department adds new sections R.30-1.D(31) and R.30-12.Q to provide a definition and add project standards for living shorelines. Coastal property owners and other stakeholders in South Carolina have expressed an increased interest in the use of living shorelines as an alternative to hardened erosion control structures within the estuarine environment. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance.

The amendments are reasonable and necessary to manage the long-term health and sustainability of the state's tidelands critical area. The amendments allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. By providing living shorelines as an alternative method of estuarine shoreline stabilization, additional benefits to water quality, tidal wetland resiliency, and oyster stock may also be realized.

#### DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate additional cost to the state resulting from administration of these amendments. Benefits to the state include improved management of coastal resources by providing standards for alternative natural shoreline stabilization approaches. The amendments allow for a more efficient authorization process for the state and the regulated public. The Department does not anticipate additional cost to the regulated community as a result of these amendments.

#### UNCERTAINTIES OF ESTIMATES:

None.

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

Implementation of the amendments benefit the environment by providing more clarity to the Department's Coastal Division statutory directives to manage the state's tideland critical areas. Living shorelines benefit the state's tideland ecosystems by maintaining, restoring, or enhancing natural estuarine processes that improve water quality, reduce shoreline erosion, protect property, and enhance aquatic habitats.

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

There is no anticipated detrimental effect on the environment and/or public health associated with these amendments. Not implementing these amendments will continue to result in longer permitting review times for proposed living shoreline installations and continued uncertainties about living shoreline project performance. The amendments allow for a more efficient authorization process to encourage the use of living shorelines as an alternative to traditional hardened erosion control structures.

#### **Statement of Rationale:**

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

Coastal property owners and other stakeholders in South Carolina have expressed an increased interest in the use of living shorelines as an alternative to hardened erosion control structures within the estuarine environment. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance.

The amendments allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. This helps ensure a project's design will accomplish its intended goals. The Department developed the amendments using scientific data and monitoring results from existing living shoreline installations in South Carolina and with input from state, local, and federal agencies, the Living Shoreline Working Group, and additional stakeholder engagement.

**ATTACHMENT B**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**Document No. 4995**

**R.30-1, Statement of Policy, and R.30-12, Specific Project Standards for Tidelands and Coastal Waters**

**As of the October 26, 2020, close of the Notice of Proposed Regulation comment period:**

Name	Section Citation	Public Comment	Department Response
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	N/A	The Conservancy supports a permitting structure which allows South Carolinians to effectively employ natural options for shoreline stabilization and marsh habitat protection through the use of living shorelines. The Conservancy is encouraged to see the state’s commitment to develop a permitting structure for living shorelines and add living shorelines as another tool in the toolbox for property owners to use in seeking to stabilize and protect their property from erosion, as well as create healthy, sustainable marshes for the future.	This comment is in support of the proposed amendments.
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	N/A	The regulations as written lack clear constraints on living shoreline dimensions or materials. We are concerned this lack of detail could trigger requirements for engineered drawings and / or lengthy review processes, frustrating the intent of the regulations. We suggest the language should seek to balance an appropriate level of detail in the permit to preserve a streamlined and consistent review process for DHEC staff, with the flexibility to support a diverse range of materials for applicants seeking to utilize natural shoreline stabilization. The application process should be equitable and not cost-prohibitive	Not adopted at this time. Coastal Division regulations currently do not provide guidance specific for living shoreline installations. The current lack of a regulatory definition or specific project standards for living shorelines has resulted in longer permitting review times and uncertainties about project performance. The purpose of the proposed amendment is to allow for a more efficient, streamlined process particularly for materials and designs that have a history of use with documented successful outcomes. The proposed amendments also provide flexibility to review and consider new approaches and materials that may



		to ensure all coastal zone property owners have the ability to apply.	be determined as viable under certain environmental conditions.
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	N/A	Include a reference in the regulations to an “engineering typical” with “not to exceed dimensions.” Hosting that information on the public education website would also be helpful.	Not adopted at this time. The proposed amendments, as written, include limits for living shoreline project by requiring that the installations be placed within extended property boundaries and not impede navigation. The proposed standards also require that the installations be shore parallel and align to natural shoreline contours. The Department does not recommend terms like “engineering typical” because environmental conditions will vary on a site by site basis and installation methods and materials will be site specific. The Department will provide a variety of educational materials and online tools to assist property owners, contractors, and the public with planning and guidance related living shorelines.
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	30-12.Q	Use language that is consistent with U.S. Army Corps of Engineers nationwide permits to reduce the impact of structures to existing vegetation and live oysters on site, and established navigation zones in tidal creeks among other things. Reference language from the Corp’s NWP 13 for Bank Stabilization, NWP 27 for Aquatic Habitat Restoration, NWP 54 for Living Shorelines and Charleston District Regional Conditions for consideration includes: 1) Living shorelines should maintain the natural continuity of the land-water interface and retain or enhance shoreline ecological processes. 2) Use of the permitted activity must not interfere with the public’s right to free navigation on all navigable waters of the U.S. 3) The activity must be designed, constructed, and maintained so that it has no more than minimal	Partially adopted. The Department has revised proposed standards to address the recommended condition 3 by revising language under 30-12.Q(6)(b) and by adding new 30-12.Q(6) (c); recommended condition 4 by adding language to 30-12.Q(7), and recommended condition 5 by adding language to 30-12.Q(5). The amendments as proposed already include language that addresses recommended condition 1 under 30-12.Q(6)(e); recommended condition 2 under 30-12.Q(6)(a); and recommended condition 6 under 30-12.Q(7).

		<p>adverse effects on water movement between the waterbody and the shore and the movement of aquatic organisms between the waterbody and the shore.</p> <p>4) Shellfish Beds -No activity may occur in areas of concentrated live shellfish populations.</p> <p>5) Native plants appropriate for current site conditions, including salinity, must be used if the site is planted by the permittee.</p> <p>6) Permittee must make every reasonable effort to conduct the work in a manner as to avoid and minimize degradation of existing vegetation and water quality.</p>	
<p>Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter</p>	30-1.D(31)	<p>Recommend language: Living Shoreline -A shoreline stabilization approach utilized in intertidal wetland environments that <u>protects shorelines from erosion while maintaining, restoring, and/or enhancing</u> natural estuarine processes through the strategic placement of native vegetation and/or use of green infrastructure as described in 30-12.Q. Living shorelines promote wetland resiliency and water quality and enhance the diverse intertidal habitat.</p>	<p>Not adopted at this time. Living shorelines are designed to provide a natural stabilization of the shoreline by slowing or reducing erosion at the site and providing other ecological benefits. They maintain the continuity of the land-water interface and do not prohibit water flow. As such, living shorelines may not protect the site from all erosion, and are not designed to be the equivalent of a hardened erosion control structure. Inclusion of this language may have unintended consequence of requiring the Department to seek removal of installations that are providing some erosional and/or ecosystem benefits but not providing complete protection from erosion.</p>
<p>Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter</p>	30-12.Q	<p>How are applicants to know what materials have demonstrated success?</p>	<p>Clarification. The Department has contracted with partners including the SC Department of Natural Resources, SC's two National Estuarine Research Reserves, The Nature Conservancy and Clemson Extension, to provide a variety of educational materials, and online tools to assist property owners, contractors, and the public with planning and guidance related living shorelines. Websites will include a</p>

			living shorelines siting tool to help evaluate if a site is suitable for a living shoreline and which material may provide the best opportunity for success under certain conditions. Other online information will feature living shoreline case studies across the state, how to navigate the new permitting process, who to contact for help, and other resources. In addition, the Department encourages pre-application meetings to provide opportunities to discuss site specific options.
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	30-12.Q(5)	How are applicants to know what materials are approved?	Clarification. The Department will approve materials on a site by site basis through the permitting process. As stated above, general information to guide property owners will be provided through educational information, online tools and training opportunities. Additional assistance will also be available through pre-application meetings with the Department.
Dale Threatt-Taylor Executive Director The Nature Conservancy South Carolina Chapter	30-12.Q(8)	Will this require a formal real estate disclosure? Suggestion for clarification.	Clarification and partially adopted. The Department has deleted language referencing “future upland property owners” from new section 30-12.Q(8). The Department does not have authority to require real estate disclosure information. Permitting requirements for maintenance and/or monitoring of living shorelines will be included as conditions of the issued permit. Active permits may be transferred to new property owners with authorization by the Department.
Leslie Lenhardt South Carolina Environmental Law Project (SCELP) on behalf of the Coastal Conservation League (CCL)	30-12.Q	The League welcomes the promulgation of these regulations and recognizes the benefits they will bring to the critical area permitting program. In particular, we are encouraged by the inclusion of the prohibition on filling or excavating vegetated wetlands, which we wholeheartedly support.	This comment is in support of the proposed amendments.

<p>Leslie Lenhardt South Carolina Environmental Law Project (SCELP) on behalf of the Coastal Conservation League (CCL)</p>	<p>30-12.Q</p>	<p>The League recommends that there be included a specific list of approved green infrastructure materials that the agencies have deemed successful during the period of study. A more robust list of approved materials discourages the use of experimental materials but does not eliminate the possibility of looking to new technologies or materials as more projects move forward and are shown to be successful. Ideally these would be preferred for all new projects; however, the League also recognizes that the agencies may want to encourage the use of experimental materials in particular instances.</p> <p>[W]e propose the following, or similar, language: Green infrastructure includes softer approaches to protecting estuarine shoreline and consists of materials including but not limited to:</p> <ul style="list-style-type: none"> <li>a) Oyster shell bags;</li> <li>b) Coir logs and/or matting;</li> <li>d) Oyster castles; and</li> <li>e) Native plants.</li> </ul> <p>These materials promote growth of native biological components, maintain continuity of the natural land-water interface, and have demonstrated success by increasing the presence of native vegetation and/or oysters and increasing elevation on the landward side of the living shoreline installation. Not all materials are appropriate in all locations and environmental conditions of the site will be considered in the evaluation of living shoreline applications including whether the type of living shoreline being proposed has demonstrated success in similar environments.</p>	<p>Not adopted at this time.</p> <p>The use of living shoreline installations for shoreline stabilization is a relatively new approach in South Carolina. While various living shoreline materials have been studied in the intertidal environment, the long-term success of many of these materials is still unknown. Prescribing a specific list of materials for use within the regulation can have unintended consequences, including limiting the Department's ability to restrict use of materials that may later be determined to cause negative long-term effects, or by prohibiting the use of new methods that may be beneficial and viable.</p> <p>The Department will provide a variety of educational materials and online tools to assist property owners, contractors, and the public with planning and guidance related living shorelines. Online information will be available to help evaluate site conditions and suggest which material may provide the best opportunity for success. This approach will provide the Department with necessary flexibility to amend suggested materials as additional research becomes available or demonstrated success is achieved.</p> <p>In response to this and other similar comments, the Department has modified the language under proposed R.30-12.Q to delete oyster shells and coir logs as examples of green infrastructure materials. The Department recognizes that this language may be misinterpreted to mean that these materials are preferred.</p>
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<p>Leslie Lenhardt South Carolina Environmental Law Project (SCELP) on behalf of the Coastal Conservation League (CCL)</p>	<p>30-12.Q</p>	<p>We also recommend including language that requires all property owners applying for bulkheads or artificial shorelines to consult with OCRM and DNR in advance of their application. As we begin to encourage artificial shorelines as an alternative to hard structures like bulkheads, an initial meeting with an applicant would serve as an opportunity to share information about a more affordable and effective way to protect property in the long term.</p>	<p>Not adopted at this time. The Department encourages and implements the practice of conducting pre-application meetings with property owners, contractors and other parties prior to submittal of critical area and/or coastal zone consistency applications. We would continue this practice for living shoreline project applications. In addition, the Department intends to provide educational materials, training opportunities and website information to help encourage the use of this shoreline stabilization option, where appropriate, and to guide property owners and contractors in the application process. We do not, however, recommend including pre-application meetings as a regulatory requirement because it may not be necessary in all instances.</p>
<p>Leslie Lenhardt South Carolina Environmental Law Project (SCELP) on behalf of the Coastal Conservation League (CCL)</p>	<p>30-12.Q</p>	<p>[W]e recommend requiring all living shoreline installations only be performed by certified contractors in perpetuity or until there is sufficient industry-wide knowledge and expertise regarding techniques for site suitability and other pertinent factors.</p>	<p>Not adopted at this time. Contractor licensing and requirements fall under the responsibility of the SC Department of Labor Licensing and Regulation. DHEC OCRM critical area permits include language to make the permittee aware of the SC Contractor's Licensing Act. The Department is communicating with neighboring states and other partners, including Clemson Extension, to develop a marine contractor training course. The intent of this training opportunity is to introduce contractors to living shorelines and provide information and training on site assessment and construction practices.</p>
<p>Sara K. Green Executive Director The Wildlife Federation</p>	<p>N/A</p>	<p>The South Carolina Wildlife Federation applauds SC DHEC's efforts to streamline the permitting process for living shorelines, and urges you to adopt these amendments as proposed.</p>	<p>This comment is in support of the proposed amendments.</p>

<p>Rod Tyler Owner Green Horizons Environmental</p>	<p>N/A</p>	<p>I am happy to see this committee address living shorelines, as they are growing in every single state, and some states have mandated the use of them unless the landowners can prove why living shorelines cannot be implemented.</p>	<p>This comment is in support of the proposed amendments.</p>
<p>Rod Tyler Owner Green Horizons Environmental</p>	<p>30-12.Q</p>	<p>Coir logs have most likely been used in your language for living shorelines out of default. As an agronomist, they do NOT offer any positive benefits to growth except perhaps initial stabilization. Common reports are that they do NOT last even for a full year and are often culprits of becoming floating ‘marine debris’ or washouts laying on banks. Coir logs are imported; have zero available nutrients; contain no beneficial microflora; and may contain foreign weed seeds, diseases or insects. They are also relatively expensive, and do not stay in-tact for an acceptable length of time (in my opinion). I am requesting the committee, due to listing coir logs to also include vegetated compost socks...Furthermore, NOT listing our technology within the new language would be an unfair prohibitive business barrier for us to overcome. From my experience, if we are NOT listed in this initial language you are drafting, we MAY be forced to continue to go to DHEC and OCRM for special permits.</p>	<p>Partially adopted. The Department has amended language under proposed R.30-12.Q to delete oyster shells and coir logs as examples of green infrastructure materials. The Department recognizes that this language may be misinterpreted to mean that these materials are preferred. While various living shoreline materials have been studied in the intertidal environment, the long-term success of many of these materials is still unknown. Prescribing specific materials for use within the regulation can have unintended consequences, including limiting the Department’s ability to restrict use of materials that may later be determined to cause negative long-term effects, or by prohibiting the use of new methods that may be beneficial and viable. The proposed amendment allows for a more efficient, streamlined process particularly for materials and designs that have a history of use with documented successful outcomes. The proposed amendments also provide flexibility to review and consider new approaches and materials that may be determined as viable under certain environmental conditions.</p>
<p>Rod Tyler Owner Green Horizons Environmental</p>	<p>30-12.Q</p>	<p>For a living shoreline to be considered a ‘success’ the committee can use common rules of thumb already in state manuals for general seeding, where ‘70% or greater vegetated cover’ exists to be considered a success. This may assist in providing a more definitive point about ‘success’</p>	<p>Not adopted at this time. One measurement of success of a living shoreline installation is the presence of vegetative cover, however, prescribing a specific percentage threshold in regulation is not recommended. Requiring a specific percentage of vegetative cover to determine success could prohibit the use of viable and</p>

		and the term ‘vegetation’ in the current language.	beneficial materials, and would place difficult research and monitoring standards on property owners that may discourage the use of this shoreline stabilization approach.
Rod Tyler Owner Green Horizons Environmental	30-12.Q	Recommended language: Living shorelines, as defined in 30-1.D, are encouraged as a <u>preferred</u> alternative to traditional hardened erosion control structures in estuarine environments because they provide an environmental benefit and reduce the environmental impacts associated with hardened structures. Living shoreline methods involve planting of native vegetation and/or the installation of other green infrastructure. Green infrastructure includes softer approaches to protecting estuarine shorelines and consists of materials including, but not limited to, <u>vegetated compost socks</u> , oyster shells, <u>oyster bags</u> , or coir logs, that promote growth of native biological components and maintain continuity of the natural land-water interface. Environmental conditions of a site will be considered in the evaluation of living shoreline applications including whether the type of living shoreline has demonstrated success. Demonstrated success includes an increase in the presence of native vegetation ( <u>&gt; 70% vegetated cover</u> ) and/or oysters, and an increase in elevation on the landward side of the living shoreline installation.	Not adopted at this time. The Department has included language to “encourage” living shorelines because these approaches are not effective in all environments. The use of the word "preferred" within this regulation may require that a property owner conduct an alternative analysis when applying for other erosion control structures. As mentioned above, the Department has amended language under proposed R.30-12.Q to delete examples of green infrastructure materials. The Department recognizes that this language may be misinterpreted to mean that any listed materials are preferred. Additionally, the Department does not recommend prescribing a percentage threshold of vegetated cover to indicate success as mentioned above.
	30-12.Q(5)	What products are currently approved on this list and what is the process to get on this list?	Clarification. The Department does not maintain a specific list of approved materials at this time. Materials will be approved on a site by site basis through the permitting process. The Department will provide a variety of educational materials and

			<p>online tools to assist property owners, contractors, and the public with planning and guidance related living shorelines. Websites will include a living shorelines siting tool to help evaluate if a site is suitable for a living shoreline and which material may provide the best opportunity for success under certain conditions based on case studies that have been conducted across the state. This approach will provide the Department with necessary flexibility to amend suggested materials as additional research becomes available or demonstrated success is achieved.</p>
	30-12.Q(5)	<p>This [certified letter from suppliers] could actually clog the department with applicant letters for using vegetated compost sock – or other products and I can’t find the rules of what constitutes approval)</p>	<p>Not adopted at this time. The Department proposes this requirement to ensure that materials used do not pose additional threats to the environment. For example, oyster shell may require quarantine for a specific timeframe to ensure that disease is not introduced to the native stock. Other materials may include plant seedlings that must be certified as native. The Department will work to provide template documents to expedite this process and to ensure that suppliers, contractors, and property owners are aware of the type of information that is needed to certify specific materials.</p>



Date: December 10, 2020

To: S.C. Board of Health and Environmental Control

From: Bureau of Land and Waste Management

**Re: Public Hearing for Notice of Final Regulation Amending R.61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, Document No. 5003.**

## I. Introduction

The Bureau of Land and Waste ("Bureau") proposes the attached Notice of Final Regulation amending R.61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*. Legal authority resides in the South Carolina Solid Waste Policy and Management Act, S.C. Code Sections 44-96-10 *et seq.*, which requires the Department to promulgate regulations establishing standards for the management of yard trash and land-clearing debris and production of compost. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## II. Facts

1. Pursuant to S.C. Code Sections 44-96-10 *et seq.*, the Department must establish standards for the management of yard trash and land-clearing debris and production of compost. The Bureau proposes amending R.61-107.4 to improve environmental protection, ensure adequate but not burdensome financial assurance to close facilities that cease operating, provide clarity for permit exemptions, update operational criteria, and correct typographical and other similar errors.
2. The Department had a Notice of Drafting published in the May 22, 2020, *State Register*.
3. Appropriate Department staff conducted an internal review of the proposed amendments on September 3, 2020.
4. The Bureau conducted a stakeholder engagement meeting virtually on August 24, 2020. Participants included representatives of the compost industry, the waste industry, environmental organizations, and city and county government. Additionally, the Bureau provided representatives from Clemson University's Department of Plant Industry and the U.S. Department of Agriculture copies of the draft and invited to participate and/or comment. The Bureau also invited parties that commented on the Notice of Drafting to participate in this meeting.
5. The Department had a Notice of Proposed Regulation published in the October 23, 2020, *State Register*. The Department received public comments from one (1) person by the November 23, 2020, close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.
6. After consideration of all timely received comments, the staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board at the October 8th, 2020, Board meeting and published in the October 23, 2020, *State Register*. Descriptions of the changes appear in Attachment B, Summary of Public Comments and Department Responses.

### III. Request for Approval

The Bureau respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-107.4, *Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals*, for submission to the General Assembly.



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Henry Porter  
Bureau Chief  
Land and Waste Management



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Myra Reece  
Director  
Environmental Affairs

Attachments:

- A. Notice of Final Regulation
- B. Summary of Public Comments and Department Responses

**ATTACHMENT A**

**STATE REGISTER NOTICE OF FINAL REGULATION  
FOR R.61-107.4, SOLID WASTE MANAGEMENT: COMPOST AND MULCH PRODUCTION  
FROM LAND-CLEARING DEBRIS, YARD TRIMMINGS AND ORGANIC RESIDUALS**

**December 10, 2020**

Document No. 5003

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

Statutory Authority: 1976 Code Sections 44-96-10 et seq.

61-107.4. Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals.

**Synopsis:**

Pursuant to S.C. Code Sections 44-96-10 et seq., it is the responsibility of the Department of Health and Environmental Control (“Department”) to promulgate regulations establishing standards for the management of yard trash and land-clearing debris, and for the production of compost. The amendments herein improve environmental protection, ensure adequate but not burdensome financial assurance to close facilities that cease operating, provide clarity for permit exemptions, update operational criteria, and correct typographical and other similar errors.

The Department had a Notice of Drafting published in the May 22, 2020, *South Carolina State Register*.

**Instructions:**

Replace R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, in its entirety with this amendment.

**Text:**

~~Indicates Matter Stricken~~

Indicates New Matter

R.61-107.4. Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals.

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Part I. General Provisions.

A. Applicability.

1. The purpose of this regulation is to establish minimum standards for the proper management of yard trimmings, land-clearing debris, and other organic material; to encourage composting and establish standards for the production of compost; and to ensure that operations are performed in a manner that is protective of public health and the environment.

~~2. Registered wood grinding or composting facilities operating on the effective date of this regulation are subject to the following:~~

~~a. Registered facilities operating on the effective date of this amendment shall be subject to all provisions of the amended regulation with the exception of the location criteria outlined in Part III.C. Such an exception shall not apply to facilities that relocate or modify their permit or registration to include feedstocks other than Category One feedstocks, after the effective date of this amendment.~~

~~b. Within 90 days of the effective date of this amended regulation, operators of registered facilities shall send written notification to the Department of their intent to operate in compliance with the regulation or of their intent to cease and close their operations.~~

~~(1) Facilities intending to continue to operate as an exempt or conditionally exempt facility shall include in its notice a statement identifying its eligibility to operate as either an exempt facility or a conditionally exempt facility, a signed certification that activities will be conducted in accordance with this regulation, a request that its registration be terminated and, as appropriate, a request that its financial assurance mechanism be canceled.~~

~~(2) Facilities intending to operate as a permitted facility shall include in its notice a request that its registration, including any modifications approved in writing by the Department prior to the effective date of this amendment, be converted to a permit, and a certification that activities will be conducted in accordance with the regulation.~~

~~(3) Facilities intending to cease wood grinding or composting activities shall provide written notice of intent to close in accordance with Part III.I of this regulation, and a proposed closure date.~~

~~c. Facilities shall achieve compliance with all provisions of this amendment within 270 days of its effective date, or close in accordance with the closure requirements of this regulation, unless otherwise approved by the Department.~~

~~d. In addition to the notice described above, a facility may be required to provide additional information to the Department to determine compliance with this regulation or to facilitate conversion of the registration to a permit.~~

~~32. The requirements of this regulation are not applicable to the grinding of pallets, packaging, or other industrial sources of wood residuals.~~

~~43. The requirements of this regulation are not applicable to sewage sludge or industrial sludge generated and managed on site of a wastewater treatment facility permitted under the authority of R.61-9, Water Pollution Control Permits, including sludges mixed with Category One feedstocks generated off-site of the facility.~~

## B. Definitions.

For the purposes of this regulation, the following terms are defined as follows:

1. "Aerated Static Pile" means a composting process that uses a controlled air distribution system to either blow or draw air through the composting mass. No agitation or turning of the composting mass is performed.

2. "Aerobic" means the biological decomposition of organic substances in the presence of at least five percent oxygen by volume.

3. "Best management practices" (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the State, ~~Waters of the United States or wetlands.~~

4. "Buffer" means the regulatory minimum separation distance required for wood-grinding equipment, operational areas, storage areas, or boundaries of a wood-grinding or composting site to structures ~~as listed in the regulation.~~

5. "Carbon-to-Nitrogen ratio" ("C:N Ratio") means the quantity of total carbon (C) in relation to the quantity of total nitrogen (N) in an organic material or composting mass.

6. "Composite sampling" means a single sample for laboratory analysis composed of multiple, well-blended point or sub-samples uniformly distributed throughout the entire volume that, after mixing, accurately represents an average or median value of the property or trait of interest for a batch or general mass of compost.

7. "Compost" means the humus-like product of the process of composting.

8. "Compost stability" refers to a specific stage or state of organic matter during composting as characterized by the inverse measure of the potential for a material to rapidly decompose.

9. "Compostable" means the capability of being decomposed by natural biological processes, ~~and is approved by the Department as an acceptable feedstock.~~

10. "Compostable products" means manufactured items such as cups, plates, and flatware for food service or bags and packaging intended for singular use that undergoes degradation by biological processes at a rate consistent with other known compostable materials and leaves no visually distinguishable or toxic residue. Only the materials that meet the relevant specifications of American Society for Testing Materials (ASTM) D6400 (plastics) or ASTM D6868 (coated papers and natural materials) shall be considered compostable products.

11. "Composting" means the aerobic biological decomposition of organic residuals under managed conditions and minimum time-temperature relationships resulting in compost.

12. "Composting mass" means the result of combining feedstocks in a formulaic recipe to achieve a Carbon-to-Nitrogen ratio, moisture content, and porosity within the mixture that facilitates rapid aerobic decomposition of the materials; the mixture of feedstocks is considered a composting mass until it meets the stability requirements of this regulation.

13. "Control" means having access to a property through part ownership, rental, lease, easement or other access agreement.

14. "Curing" means the process that follows composting in which the compost is matured to meet market conditions.

15. "Department" means the South Carolina Department of Health and Environmental Control (SCDHEC).

16. "Domestic septage" means either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool,

or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

17. "Domestic sewage" means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

18. "Feedstock" means source separated, recovered organic material approved by the Department or listed in the Appendix ~~to~~ of R.61-107.4 to be used in the production of compost, mulch, or other product.

19. "Finished compost" means the product of a composting mass that has met the minimum time and temperature requirements for the composting method chosen and satisfies the stability requirements and applicable quality assurance and testing requirements for finished compost found in Part III.F of this regulation.

20. "Generated on site" means residuals produced on the same single tax map parcel or multiple tax parcels under the same ownership or control, upon which it is managed.

21. "Grinding" means the act of mechanically reducing the size of organic materials.

"Hearing" means a Department proceeding that is conducted after notice by mail has been given to the permittee of facts or conduct that warrant a permit revocation and is a proceeding where the permittee is given an opportunity to show compliance with all lawful requirements for the retention of the permit.

22. "Industrial sludge" means the solid, semi-solid, or liquid residue generated during the treatment of industrial wastewater in a treatment works. Industrial sludge includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes, and a material derived from industrial sludge. Industrial sludge does not include ash generated during the firing of industrial sludge in an industrial sludge incinerator or grit and screenings generated during preliminary treatment of industrial wastewater in a treatment works. Industrial sludge by definition does not include sludge covered under 40 CFR 503 or R.61-9.503, Water Pollution Control Permits Standards for the Use or Disposal of Sewage Sludge.

23. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of the Resources Conservation and Recovery Act (RCRA). The term does not include employee kitchen or cafeteria residuals, packaging waste or yard-trimmings generated on site of an industrial property.

24. "In-process material" means ground organics ~~which~~ that have been incorporated into a composting mass and other material that is in the process of being cured, but has not yet achieved the status of finished compost.

25. "In-vessel composting" means a process in which decomposing organic material is enclosed in a drum, silo, bin, tunnel, or other container for the purpose of producing compost; and in which temperature, moisture and air-borne emissions are controlled, vectors are excluded, and nuisance and odor generation minimized.

26. "Land-clearing debris" means material generated solely from land-clearing activities, including brush, limbs, and stumps, but does not include solid waste from agricultural or silvicultural operations.

27. "Manure" means the fecal and urinary excreta of livestock, poultry, or fish and may also contain bedding, spilled feed, water, soil and other substances incidental to its collection. This definition does not include excreta from household animals such as dogs and cats.

28. "Mulch" means the organic, non-composted product rendered by grinding Category One feedstocks.

29. "Municipal solid waste" means discards from residential, commercial, institutional, and industrial sources ~~which~~that have not been separated at the source for recycling. Industrial process waste is excluded from the wastes that comprise municipal solid waste.

30. "On-site" means activities performed on property under the same ownership or control where the feedstocks were grown, produced, or otherwise generated for recycling.

31. "~~Organic~~" means a substance derived from living organisms.

32. "Open burning" is defined to have the same meaning as used in Air Pollution Control Regulations and Standards R.61-62.1, Definitions and General Requirements, or any future amendments, and currently means any fire or smoke-producing process ~~which~~that is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

33. "Open dumping" means any unpermitted disposal or landfilling activity except as specifically exempted by regulation.

34. "Operational Area" means the area of a wood-grinding or composting facility where equipment maintenance, material storage, material processing, composting or curing activities are performed, or as otherwise specified by permit.

35. "Operator" means the person responsible for the overall operation of a wood-grinding or composting facility.

"Organic" means a substance derived from living organisms.

36. "Pathogen" means a disease-causing organism, such as fecal coliform, Salmonella bacteria, Ascaris parasite eggs, etc.

37. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

38. "Porosity" means the fraction of a material or mass that is void space.

39. "Putrescible" means material that contains organic matter capable of decomposition by microorganisms and of such a character and proportion that it causes obnoxious odors and the capability of attracting or providing food for birds and other animals.

40. "Residence" means any existing structure, all or part of which is designed or used for human habitation, that has received a final permit for electricity, permanent potable water supply, permanent sewage disposal, and, if required by the local government, a certificate of occupancy, ~~if required by the local government~~.



41. "Residuals" means materials that have served their original, intended use and have been source separated and diverted for recycling, grinding, or composting.

42. "Run-off" means any rainwater not absorbed by soil, that flows over land from any part of a facility.

43. "Sewage sludge" means the solid, semi-solid, or liquid residue generated during the treatment of municipal wastewater or domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic or industrial sewage in a treatment works.

44. "Silvicultural" means produced from or pertaining to the care and cultivation of forest trees and timber, including bark and woodchips.

45. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

46. "Source separated" means segregated from solid waste at the point of generation to facilitate recycling.

47. "Thermophilic" means a biological stage in the composting process during which microorganisms break down proteins, fats, and complex carbohydrates such as cellulose at relatively high temperatures (ranging from 113 degrees Fahrenheit to 167 degrees Fahrenheit or 45 degrees Celsius to 75 degrees Celsius).

48. "Turn" means to physically manipulate the compost mass in order to aerate, decrease temperatures, and increase evaporation rates.

49. "Unauthorized material" means any feedstock or waste material that due to its feedstock category, characteristics, or volume, causes an exempt, conditionally exempt site, or permitted facility to be in violation of this regulation or the permit conditions approved by the Department.

50. "Untreated wood" means raw wood or lumber that has not been chemically treated or painted.

51. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

"Visual marker" means a stationary pole or other apparatus that indicates a boundary of a facility's operational area and which can be viewed from the area delineated.

~~52. "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, artesian wells, rivers, perennial and navigable streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. This definition does not include ephemeral or intermittent streams. This definition includes wetlands as defined in this Part.~~

~~53. "Waters of the United States" means:~~

~~a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;~~

~~b. All interstate waters, including interstate wetlands;~~

~~c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:~~

~~(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;~~

~~(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or~~

~~(3) Which are used or could be used for industrial purposes by industries in interstate commerce;~~

~~d. All impoundments of waters otherwise defined as Waters of the United States under this definition;~~

~~e. Tributaries of waters identified in paragraph a through paragraph f of this definition;~~

~~f. The territorial sea; and~~

~~g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph a through paragraph f of this definition.~~

~~h. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, are not waters of the United States.~~

~~54. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands shall be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and~~

hydrophytic vegetation. All three criteria shall be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.

55. "Yard trimmings" means residuals consisting solely of vegetative matter resulting from maintenance or alteration of public, commercial, institutional, or residential landscapes and tends to include grass clippings, leaves, discarded plants and weeds, which have been source separated and diverted for recycling.

#### C. Variances.

Any request for a change to the adherence to a provision or provisions of this regulation, or to a permit issued pursuant to or in accordance with this regulation, shall be made in writing to the Department. The Department shall provide a written response to such a request.

#### D. Prohibitions.

1. Open dumping of land-clearing debris, yard trimmings, and other organics is prohibited.

2. Open burning of land-clearing debris, yard trimmings, and other organics is prohibited except as approved by the Department for emergency storm debris management or as allowed by Air Pollution Control Regulations and Standards R.61-62.2, Prohibition of Open Burning.

#### ~~E~~. Violations and Penalties.

A violation of this regulation, or any permit or order issued pursuant to or in accordance with this regulation, subjects a violator to the issuance of a Department order, a civil enforcement action, or to a criminal enforcement action in accordance with S.C. Code Ann., Section 44-96-100, as amended.

#### ~~E~~F. Severability.

If, for any reason, any provision, paragraph, sentence, clause, phrase, or part of this regulation or application thereof, is declared by a court of competent jurisdiction as invalid, or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder of this regulation or its application.

### Part II. Exempted and Conditionally Exempted Activities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix ~~to~~ of R.61-107.4. For the purposes of this Part-II, a "site" shall mean one tax map parcel or multiple contiguous tax parcels under the same ownership.

#### A. Exempted Activities.

The activities below are exempted from the requirements of this regulation, but shall be performed in a manner to not cause harm to human health or to the environment as determined by the Department:

1. Backyard composting, when feedstocks generated on residential property by the property owner or occupants are composted primarily for use on the same property;

2. Grinding or composting of Category One feedstocks by a person on property under their ownership or control, when the feedstocks are generated at that site on site;

3. Acceptance, storage, grinding, or composting of only Category One feedstocks by a person on property under their ownership or control, when the combined total of unground feedstocks and in-process material on site at any given time is less than 80 cubic yards;

4. Wood grinding activities for maintenance and land-clearing activities by public agencies, public utilities, railroads, or their representatives, upon land ~~they-owned~~ or controlled by the public agency, public utility, or railroad;

5. Composting activities using only Category One and Category Two vegetative feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site, at any given time, is less than five cubic yards;

6. Storage, grinding, and composting activities ~~required~~ approved by the Department for emergency storm debris management at sites designated by state, county, ~~and~~ or municipal government;

7. Composting activities or other organics management activities associated with farming operations when the material managed is produced from crops grown on a farm, and when the compost is produced primarily for use on property under the same ownership or control;

8. Limited duration events that involve processing or storage of organic residuals for distribution to the public, to include "Grinding of the Greens" and, as approved by the Department, other programs of a similar nature; and

9. Composting activities by a participant transitioning to or enrolled in the U.S. Department of Agriculture (USDA) National Organic Program, or other programs of a similar nature as approved by the Department, and the compost produced is primarily for use on property under control of the participant.

#### B. Conditionally Exempt Activities.

1. The following activities are exempt from the permitting requirements of this regulation, but shall comply with all requirements of this Part H.B.:

a. Management of only source separated Category One feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.

b. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site at any given time is less than 40 cubic yards.

c. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks generated on site of commercial, industrial, or institutional properties under the same ownership, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.

2. All materials shall be managed in a manner to not cause harm to human health or to the environment as determined by the Department.

3. A facility choosing to operate under a conditional exemption shall submit a written notice to the Department stating that it will operate under the conditional exemption requirements. Once submitted, the

Department will respond to the notice in writing, either stating concurrence that the facility operation meets the conditional exemption requirements or that it does not.

a. The notice to the Department shall include completion of a Department-issued form and a site map of the facility that demonstrates compliance with required buffers and include information that will allow the Department to confirm that the proposed facility conforms to all other exemption conditions of this Part.

b. The Department shall respond in writing within fifteen (15) calendar days of receiving the notice.

c. Facilities operating prior to the effective date of the most recent amendment to this regulation shall notify the Department within ninety (90) calendar days of that effective date.

24. Conditionally exempt activities shall be performed in accordance with the minimum buffers listed below as measured from the operational area; to the listed entities:

a. A minimum 200-foot buffer shall be required from the operational area to residences, schools, day-care centers, churches, hospitals, and publicly owned recreational park areas unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;

b. A minimum 50-foot buffer shall be required from property lines unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;

c. A minimum 100-foot buffer shall be required from public and private drinking water wells.

35. The Department may issue a variance to operate with less restrictive buffers when it determines that the technology and practices of the operation justify the reduction. The request shall be made in writing to the Department and the Department shall respond in writing.

46. All putrescible feedstocks shall be managed to prevent the escape of liquids and to suppress odors by ~~immediately~~-incorporating the feedstocks into the compost mass, an in-vessel composting unit, an air-tight container, or an enclosed building.

57. Best Management Practices shall be utilized to manage stormwater and to prevent impact to Waters of the State.

68. No feedstocks or other material piles may be placed or stored in standing water.

79. All feedstocks and other material piles on site of the facility shall be monitored and managed to prevent fire.

810. Unauthorized and unrecyclable material shall be removed from the facility for proper disposal no less than every seven (7) calendar days, except that putrescible waste shall be placed in an air-tight covered container immediately and removed from the facility within seventy-two (72) hours.

911. Compost produced by conditionally exempt facilities using Category Two feedstocks shall not be offered for sale to the public unless it can be demonstrated to meet all applicable standards for compost quality under Part III.F of this regulation.

12. All feedstocks shall be ground and/or incorporated into a composting mass not less than once per year. Conditionally exempt facilities operating prior to the effective date of this regulation shall have one year from the effective date of this regulation revision to comply with this requirement.

13. Piles of combustible material shall not be stored in excess of sixteen (16) feet in height, unless otherwise approved in writing by the Department.

### Part III. Permitted Facilities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix ~~to~~ of R.61-107.4.

#### A. Facility Types.

Facilities described below ~~may~~ shall not be operated without a permit, except as specifically exempted in ~~Part II of this regulation:~~

1. Type One facilities. Type One facilities are facilities that grind or compost only source separated organic residuals described as Category One feedstocks.

2. Type Two facilities. Type Two facilities are ~~these~~ facilities that compost only source separated compostable materials described as Category Two feedstocks or mixtures of Category One and Category Two feedstocks, or any similar items specifically approved in writing by the Department.

3. Type Three ~~F~~ facilities. Type Three facilities are ~~these~~ facilities that:

a. Compost Category Three feedstocks or mixtures of Category Three feedstocks with other feedstock categories ~~from~~ listed in the Appendix ~~to~~ of R.61-107.4;

b. Compost feedstocks not listed in the Appendix ~~to~~ of R.61-107.4, that pose a level of risk greater than Category Two feedstocks as determined and allowed, on a case-by-case basis, by permit from the Department; or

c. Produce compost using methods not specified in ~~Part III.E.6 of this regulation and as allowed on a case-by-case basis by permit from the Department.~~

#### B. General Criteria.

1. The siting, design, construction, operation, and closure activities for facilities shall conform to the standards set forth in this regulation, unless otherwise approved by the Department.

2. Facilities shall obtain the appropriate permit or permits from the Department in accordance with ~~Part IV or Part V of this regulation,~~ prior to the construction, operation, expansion, or modification of a facility.

3. The Department may approve a variance from the general, location, design, or operating criteria, based upon the technology and practices of the operation.

4. All facilities shall be subject to inspections and evaluations of operations by a representative of the Department.

#### C. Location Criteria.

1. All facilities shall comply with the minimum buffers, listed below, from the operational area of the facility, to the listed entities, as they exist at the time the permit application is received by the Department, except that an entity listed here shall be exempt from the buffer requirement to its own buildings.

a. For Type One facilities, for Type Two facilities performing in-vessel composting, or for Type Two facilities performing composting performed in an enclosed building, a minimum 200-foot buffer shall be required from the operational area to residences, schools, day-care centers, churches, hospitals, and publicly owned recreational park areas; for all other Type Two or for all Type Three facilities, a minimum 1,000-foot buffer shall be required.

b. For Type One facilities, a minimum 50-foot buffer shall be required from the operational area to property lines; for Type Two or Type Three facilities, the buffer shall be at least 100 feet;

c. A minimum 100-foot buffer shall be required from the operational area to any Waters of the U.S.State;

d. A minimum 100-foot buffer shall be required from the operational area to public or private drinking water wells; and

~~e. A minimum 100-foot buffer shall be required from isolated wetlands; and~~

~~f.~~ For Type Two or Type Three facilities, a minimum 10,000-foot buffer shall be required from the operational area to any airport runway used by turbojet aircraft and a minimum 5,000-foot buffer from any airport runway used only by piston-type aircraft, unless composting is in an enclosed building.

2. The Department may approve, with documented consent of all property owners within the buffer, less stringent buffers than those listed ~~in Part III.C.1.a and Part III.C.1.b of this regulation~~ to residences, schools, day-care centers, churches, hospitals, publicly owned recreational park areas, and property lines.

3. The Department reserves the right to require more stringent buffers if it is determined, based on the site, feedstocks, or operations, that more stringent buffers are necessary to protect health and the environment.

4. The Department's permit decision does not supersede, affect, or prevent the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county, or by an agency or department of this state.

5. Local governments may require siting criteria and buffer distances that are more stringent than the state regulations.

#### D. Design Criteria.

1. All facilities shall be designed to divert ~~storm water~~stormwater from running onto the operational areas of a facility.

2. The operational area of all permitted Type One facilities shall ~~ensure~~have at least one foot of separation to groundwater.

3. The operational area of all permitted Type Two and Type Three facilities shall be a hard-packed all-weather surface able to withstand various temperatures and ~~allow for be conducive to~~ heavy equipment operation, without damage or failure. The working surface shall be:

a. A naturally occurring or engineered soil mixture with at least two feet separation to the seasonal high-water table; or

b. A surface such as concrete or asphalt pad on an appropriate sub-base intended to support and prevent failure of the surface layer with at least one foot of separation to the seasonal high-water table from the sub-base of the constructed surface; or

c. As otherwise approved by the Department.

4. Facilities may use borings or test pits to determine separation from the seasonal high-water table.

5. The Department may impose more protective design criteria for the operational areas of Type Three facilities to ensure compatibility with the feedstocks in use and the structural integrity needed for the equipment used at the site.

6. Facility design shall ~~ensure be structured so~~ that each composting mass can be managed in accordance with the operational requirements of this regulation.

7. Access to all permitted facilities shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent unauthorized dumping and access.

8. Each facility must have permanent visual markers that correspond to the approved operating areas shown on the site plan described in this regulation. Markers will be posted a minimum of every 300 feet and delineate the boundaries of areas where material is being stored, where material is being processed through composting, wood grinding, or other activities covered under this regulation, and where finished compost or mulch is stored.

a. Visual markers that are damaged or destroyed must be repaired or replaced within seven (7) calendar days.

b. All operations performed at permitted facilities must be conducted within the boundaries designated by the visual markers, with the exception of transportation services.

#### E. General Operating Criteria.

1. Site Control and Sign Requirements shall be as follows:

a. ~~All permitted facilities shall control receipt of all materials. No incoming waste shall be accepted by the facility unless facility personnel are present to receive the incoming waste.~~

b. All permitted facilities shall post signs in conspicuous places that are resistant to weather and fading of color ~~in direct sunlight~~ that:

(1) Identify the owner, operator, or a contact person and telephone number in case of emergencies;

(2) Provide the hours during which the facility is open ~~for use~~; and,



(3) List the valid SCDHEC Facility I.D. number(s) for the facility.

c. Facilities may accept only those materials as allowed by facility type and category as described listed in the Appendix to of R.61-107.4 or as otherwise specified in their permit application and approved in writing by the Department.

d. No material, including feedstocks or in-process material, may be stored at the permitted facility in excess of the maximum capacity allowed by permit.

e. No facility shall accept deliveries of feedstocks or other materials that will result in materials being stored in excess of the maximum capacity allowed by permit.

2. All wood-grinding activities shall assure that no debris is ejected onto neighboring properties.

3. Facilities shall use Best Management Practices to control run-on and run-off. An appropriate permit may be required prior to the discharge of any stormwater.

~~4. Open burning is prohibited except in accordance with Part VI. B of this regulation.~~

~~5. Pile sizes and spacing. All materials shall be maintained in such a way as to:~~

~~a. Allow the measurement of internal pile temperatures of the compost mass as required;~~

~~b. Enable the compost mass to be turned as needed to result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock;~~

~~c. Have sufficient space around piles of material to allow access of emergency fire fighting equipment and procedures as described and approved in the facility operational plan;~~

~~d. Provide a safe working environment.~~

~~6. The operation of all composting facilities shall follow acceptable management practices for composting methods that result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock. The following composting methods will be allowed:~~

~~a. Passive leaf composting, in which composting leaves collected by local government programs are managed with little manipulation of the materials after they are mixed and piled; turning shall be performed at least quarterly or as needed to prevent odors;~~

~~b. The windrow composting method, in which the following requirements apply: Aerobic conditions at 131 degrees Fahrenheit or 55 degrees Celsius or greater shall be maintained in the composting mass for at least 15 days. During the high temperature period, the composting mass shall be turned at least five times. The composting mass shall be turned before the internal temperature exceeds 160 degrees Fahrenheit or 71 degrees Celsius.~~

~~c. The aerated static pile composting method, in which the following requirements apply: Aerobic conditions shall be maintained during the composting process. The temperature of the composting mass shall be maintained at 131 degrees Fahrenheit or 55 degrees Celsius for at least three consecutive days; or~~

~~d. The in-vessel composting method, in which the temperature of the composting mass shall be maintained at a minimal temperature of 131 degrees Fahrenheit or 55 degrees Celsius for at least three consecutive days.~~

~~e. The use of other composting methods shall require written Department approval.~~

~~7. Temperature measurements shall be as follows:~~

~~a. The temperature of each composting mass shall be measured daily during the first week of active composting, and not less than weekly thereafter.~~

~~b. Temperature readings shall be taken every 50 feet along the length of a composting mass and from within the center of the mass.~~

~~c. In-vessel composting systems shall follow the manufacturer's recommendations for monitoring temperatures during active composting.~~

~~d. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department.~~

~~e. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.~~

~~8. The moisture content in the composting mass shall be monitored regularly and managed to achieve desired results.~~

~~9. The working surface of the operational area of all permitted facilities shall be maintained to prevent standing water or uncontrolled releases.~~

~~10. Material Management shall occur as follows:~~

~~a. Grass clippings shall be incorporated into the composting mass within 24 hours of arrival at a ratio of no more than one part grass to three parts chipped or ground carbon-rich material by volume.~~

~~b. Food residuals and other putrescible, nitrogen-rich feedstocks shall be incorporated into the compost mass the same day of receipt or stored not more than 72 hours in closed, air-tight, and leak-proof containers.~~

~~c. If manure is stored more than three days, the manure shall be stored on a concrete pad or other impervious surface and covered with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored.~~

~~d. Category Three feedstocks shall be incorporated into the compost mass upon receipt or stored in a manner which is described in the operational plan and approved by the Department.~~

~~e. Source-separated feedstocks shall not be combined until incorporated into the compost mass, except as described in the operational plan and approved by the Department.~~

~~f. Feedstocks shall be thoroughly mixed into the compost mass in accordance with a formulaic recipe that optimizes Carbon-to-Nitrogen ratios, moisture content and porosity. Feedstocks with excessive~~

~~moisture content shall be delivered onto a bed of woodchips or sawdust or otherwise managed to prevent escape of the liquids from the compost mass.~~

~~g. All operations shall be performed to prevent the re-introduction of pathogens into materials that have undergone, or are in the process of, pathogen reduction.~~

~~h4. Unauthorized feedstocks, unrecyclable materials, and waste shall be removed from the facility for proper disposal no less than every seven (7) calendar days unless otherwise approved by the Department. Unauthorized putrescibles shall immediately be placed in an air-tight a covered container immediately and removed from the facility within seventy-two (72) hours of receipt. The area designated for temporary storage of unauthorized waste at the facility shall be identified in the facility operational plan. The Department may require more frequent removal based on the nature or quantity of other unacceptable waste.~~

~~11. All material piles shall be monitored and managed to prevent fire as described in the facility operational plan.~~

~~12. Facilities shall identify any chemical changes to a feedstock, or changes to the chemical ratios of a feedstock, significant enough to alter the composting process or the quality of the compost produced, and shall request appropriate permit modifications from the Department for any operational plan changes required as a result of those changes.~~

~~135. Reporting and Records Retention shall be in accordance with the following:~~

~~a. Not less than once each month, facilities shall measure and record the amounts, in cubic yards, of feedstocks, in-process material, finished compost, and mulch, and waste material on site at that time.~~

~~b. No later than September 1 of each year, all permitted facilities shall submit to the Department, an annual report on a form approved by the Department, for the prior fiscal year beginning on July 1 and ending June 30. The report shall include the following information:~~

~~(1) The total amount in tons, either actual or estimated weight, of in-coming feedstock received yearly for each type of feedstock and the source for each;~~

~~(2) The total amount in tons, either actual or estimated weight, of mulch, compost, or other material that on a yearly basis is:~~

~~(a) Produced;~~

~~(b) Transferred off-site as products such as mulch, compost, or soil amendment;~~

~~(c) Transferred off-site for further processing; and, or~~

~~(d) Disposed in a landfill and the reason for disposal.~~

~~c. The following information shall be maintained at all facilities that produce compost for sale or distribution to the public and made available to the Department upon request unless otherwise approved by the Department: Records of weekly temperature readings of mulch piles shall be maintained by all facilities for a period of no less than three (3) years and be made available at all reasonable times for inspection by the Department.~~

~~(1) Daily and weekly temperature readings and moisture observations of each composting mass that is formulated;~~

~~(2) Start-up dates for each composting mass that is formulated and the date for each time a composting mass is remixed or turned while composting;~~

~~(3) Number of days required to produce the end product, by type; and~~

~~(4) The results of all testing performed in accordance with the Quality Assurance requirements of this regulation and any corrective action taken to improve product quality to the standards in Part III.F.~~

d. ~~Any e~~Changes into telephone numbers, names of responsible parties, addresses, etc. for a permitted facility shall be submitted to the Department within ten (10) business days of the change.

e. Records shall be maintained by all facilities for a period of no less than three (3) years and shall be furnished upon request to the Department or be made available at all reasonable times for during inspections by the Department.

~~14. Any compost produced with Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in Part III.F.~~

#### ~~156.~~ Operational Plans.

All facilities shall be operated in accordance with this regulation and an operational plan developed specifically for the facility and approved by the Department in writing.

a. Facilities shall maintain an operational plan ~~onsite~~ on site of the facility and it shall be made available for inspection upon request by the Department.

b. Facilities requiring permits shall submit their operational plan to the Department along with the permit application. The Department may require changes to an operational plan when the Department has determined that the operation requires additional measures to protect human health and safety and the environment.

c. Facilities shall address all requirements of this Ppart III.E and ~~Part F~~ in their operational plan, including at a minimum:

(1) A description of the anticipated source and composition of the incoming feedstocks;

(2) A description of the processes and methods that will be used to grind, compost, cure, store, and otherwise manage material, including a description of production capabilities and equipment to be used;

(3) A description of the procedure for inspecting, measuring, and managing incoming feedstock and unacceptable waste;

(4) A description of the procedures for prevention and control of vector, odor, dust, and litter specific to their geographic location and the types and amounts of feedstocks used in their operation;

(5) A description of the anticipated markets for end products;

(6) A quality assurance and testing plan for finished compost that describes:

(a) All of the parameters and protocols for obtaining, preserving, storing, and transporting samples to a South Carolina certified laboratory;

(b) The frequency of monitoring to assess temperature profiles during composting;

(c) The methods and processes used to determine stability of the compost; and

(d) Other protocols used to achieve quality assurance standards required in ~~Part III.F~~this regulation;

(7) A fire prevention and ~~preparedness document~~response plan which includes:

(a) A description of the processes used to prevent fire, specific to their site design and operating criteria;

(b) A description of the procedures for ~~control of~~responding to a fire specific to their site location, feedstock types, and operating criteria;

(c) The location of emergency equipment and fire suppressant materials; and

(d) The emergency contact information for the local fire protection agency; and

~~(e) Documentation of arrangements with the local fire protection agency to provide fire-fighting services.~~

(8) A contingency plan describing facility operations in the event of equipment failure;

(9) A detailed closure plan to meet the requirements of ~~Part III.I~~this regulation, including final closure cost estimate pursuant to ~~this Part III.H.2 of this regulation~~; and

(10) Any additional procedures implemented as a requirement of the Department as described in ~~Part III.G~~this regulation.

~~16. Compost Program Manager Certification shall be secured and maintained as follows:~~

~~a. Unless otherwise approved by the Department, within 18 months of the effective date of this regulation, all permitted Type Two and Type Three facilities are required to have an operator or one or more employees classified as a manager or supervisor who is duly certified as a compost program manager.~~

~~b. Persons who have achieved and maintain compost manager certification by the U.S. Composting Council (USCC), the Solid Waste Association of North America (SWANA), or another Department approved training program shall be deemed certified by the Department.~~

~~c. Documentation of Compost Program Manager Certification shall be maintained at all permitted Type Two and Type Three facilities and made available to the Department upon request unless otherwise approved by the Department.~~

7. In the event of a fire at a facility, the facility must:

a. Verbally notify the appropriate regional office of the Department within twenty-four (24) hours. A written notification must be sent within seven (7) calendar days;

b. Cease accepting incoming waste or divert it to another area of the facility. If waste is diverted to another area of the facility, notification must be included as described in (a) above; and

c. Use the methods and equipment outlined in the fire prevention and response plan that is included in the operations plan approved by the Department.

#### F. Material Management for Permitted Facilities.

1. Piles of mulch or combustible material shall not be stored in excess of 16 feet in height, unless otherwise approved in writing by the Department. Requests for a variance to the pile height limit must be accompanied by a detailed explanation in the facility operational plan as to how the temperature of the piles will be monitored and managed to prevent fires.

2. All piles of mulch and ground material shall be monitored and managed to prevent fire as described in the facility operational plan:

a. The temperature of each pile shall be measured weekly or as otherwise approved in the operational plan;

b. Temperature readings shall be taken every 50 feet along the length or around the circumference of a pile, at a depth of three to six feet;

c. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department; and

d. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.

3. All land-clearing debris shall be ground at least once per fiscal year. Stumps or large debris that cannot be ground shall be removed from the facility for disposal or other management at least once per fiscal year.

4. All materials shall be maintained to:

a. Have sufficient space around piles of material to allow access of emergency fire-fighting equipment;

b. Have sufficient space around piles of material to allow loading or other activities described in the approved operational plan;

c. Allow monitoring of internal temperatures; and

d. Provide a safe working environment.

5. Within one (1) year of being ground, mulch and ground material must be bagged, added to a managed compost mass, transferred from the facility, or disposed of in accordance with a Department permit.

6. The working surface of the operational area of all permitted facilities shall be maintained to prevent standing water or uncontrolled releases.

G. Additional Operating Requirements for Type Two and Type Three Facilities.

1. The operation of all composting facilities shall follow acceptable management practices for composting methods that result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock. The following composting methods will be allowed:

a. Passive leaf composting, in which composting leaves collected by local government programs are managed with little manipulation after they are mixed and piled; turning shall be performed at least quarterly or as needed to prevent odors;

b. The windrow composting method, in which the following requirements apply: Aerobic conditions at 131 degrees Fahrenheit or 55 degrees Celsius or greater shall be maintained in the composting mass for at least fifteen (15) consecutive days. During the high temperature period, the composting mass shall be turned at least five (5) times. The composting mass shall be turned before the internal temperature exceeds 160 degrees Fahrenheit or 71 degrees Celsius;

c. The aerated static pile composting method, in which the following requirements apply: Aerobic conditions shall be maintained during the composting process. The temperature of the composting mass shall be maintained at 131 degrees Fahrenheit or 55 degrees Celsius for at least three (3) consecutive days;  
or

d. The in-vessel composting method, in which the temperature of the composting mass shall be maintained at a minimum temperature of 131 degrees Fahrenheit or 55 degrees Celsius for at least three (3) consecutive days.

e. The use of other composting methods shall require written Department approval.

2. Temperature measurements shall be as follows:

a. The temperature of each composting mass shall be measured daily during the first week of active composting, and not less than weekly thereafter;

b. Temperature readings shall be taken every 50 feet along the length of a composting mass and from within the center of the mass;

c. In-vessel composting systems shall follow the manufacturer's recommendations for monitoring temperatures during active composting;

d. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department; and

e. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.

3. The moisture content in the composting mass shall be monitored regularly and managed to achieve desired results.

4. Pile sizes and spacing. All materials shall be maintained to:

a. Allow the measurement of internal-pile temperatures of the compost mass as required;

b. Enable the compost mass to be turned as needed to result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock;

c. Have sufficient space around the composting mass to allow loading and other activities described in the approved operational plan;

d. Have sufficient space around the composting mass to allow access of emergency fire-fighting equipment and procedures as described and approved in the facility operational plan; and,

e. Provide a safe working environment.

5. Material Management shall occur as follows:

a. Grass clippings shall be incorporated into the composting mass within twenty-four (24) hours of arrival at a ratio of no more than one part grass to three parts chipped or ground carbon-rich material by volume;

b. Food residuals and other putrescible, nitrogen-rich feedstocks shall be incorporated into the compost mass the same day of receipt or stored not more than seventy-two (72) hours in closed, air-tight, and leak-proof containers;

c. If manure is stored more than three (3) calendar days, the manure shall be stored on a concrete pad or other impervious surface and covered with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored;

d. Category Three feedstocks shall be incorporated into the compost mass upon receipt or stored in a manner that is described in the operational plan and approved by the Department;

e. Source separated feedstocks shall not be combined until incorporated into the compost mass, except as described in the operational plan and approved by the Department;

f. Feedstocks shall be thoroughly mixed into the compost mass in accordance with a formulaic recipe that optimizes Carbon-to-Nitrogen ratios, moisture content, and porosity. Feedstocks with excessive moisture content shall be delivered onto a bed of woodchips or sawdust or otherwise managed to prevent escape of the liquids from the compost mass; and

g. All operations shall be performed to prevent the re-introduction of pathogens into materials that have undergone, or are in the process of, pathogen reduction.

6. Facilities shall identify any chemical changes to a feedstock, or changes to the chemical ratios of a feedstock, significant enough to alter the composting process or the quality of the compost produced, and shall request appropriate permit modifications from the Department for any operational plan changes required as a result of those changes.

7. The following information shall be maintained at all facilities that produce compost for sale or distribution to the public and made available to the Department upon request unless otherwise approved by the Department:

a. Daily and weekly temperature readings and moisture observations of each composting mass that is formulated;



b. Start-up dates for each composting mass that is formulated and the date for each time a composting mass is remixed or turned while composting;

c. Number of days required to produce the end product, by type; and

d. The results of all testing performed in accordance with the quality assurance requirements of this regulation and any corrective action taken to improve product quality to the standards in this regulation.

8. Any compost produced with Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in this regulation.

9. Compost Program Manager Certification shall be secured and maintained as follows:

a. Unless otherwise approved by the Department, within eighteen (18) months of the effective date of this regulation, all permitted Type Two and Type Three facilities are required to have an operator or one or more employees classified as a manager or supervisor who is duly certified as a compost program manager.

b. Persons who have achieved and maintain compost manager certification by the U.S. Composting Council (USCC), the Solid Waste Association of North America (SWANA), or another Department-approved training program shall be deemed certified by the Department.

c. Documentation of Compost Program Manager Certification shall be maintained at all permitted Type Two and Type Three facilities and made available to the Department upon request unless otherwise approved by the Department.

FH. Quality Assurance and Testing Requirements for Finished Compost.

1. Any compost produced from Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in this section. Composite samples shall be collected, stored and analyzed in accordance with the procedures found in the U.S. Department of Agriculture publication "Test Methods for the Examination of Composting and Compost;" (TMECC), or equivalent methodology recommended by the U.S. Environmental Protection Agency publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods;"-

2. Compost from Type One facilities or compost made solely from Category One feedstocks with compliant records of time and temperature monitoring are presumed to meet the standard for biological contaminants and are not required to perform laboratory testing as described in this section.

3. All compost for sale or distribution to the public and produced from feedstocks other than Category One must be tested and meet the designation of Class A Exceptional Quality Compost or be designated for legal disposal, additional processing, or other use as approved by state or federal agencies having appropriate jurisdiction.

4. Class A exceptional quality compost:

a. Contains less than two percent (2%) physical contaminants by dry weight analysis;

b. Has a stability index rating of stable or very stable;

c. Meets Class A pollutant limits found in Table 1; and

d. Meets standards of this regulation for pathogen reduction.

Table 1. Pollutant Standards: Maximum Allowable Concentration  
(milligrams per kilogram dry weight)

Pollutant	Class A
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

5. The distribution and use of exceptional quality compost is unrestricted and the consumer shall be advised to apply the product at agronomic rates based on product analysis, except that the use and distribution of compost produced from feedstocks generated by facilities permitted pursuant to R.61-67, Standards for Wastewater Facility Construction, shall be subject to all applicable requirements of R.61-9.

6. Compost Testing Frequency. The frequency of laboratory testing for pollutants, biological contaminants, and physical contaminants shall be based on the volume of compost produced annually by the facility as indicated in Table 2:

Table 2. Compost Testing Frequency

Compost Quantity	Frequency
1-2500 tons	1 per quarter (or less as approved)
2501-6250 tons	1 per quarter
6251-17500 tons	1 per 2 months
17501 tons and above	1 per month

7. The composted product shall be analyzed for stability using methods as set forth in the USDA TMECC Section 05.08-A through Section 05.08-F and the Compost Stability Index Table 05.08-1.

8. All compost produced for sale or distribution is required by this regulation to meet the physical and biological contaminant standards in Table 3 by a testing method referenced in ~~Section III.F.1~~ this regulation or an equivalent method allowed by the Department:

Table 3. Physical and Biological Contaminants Limits for Compost

Physical contaminants (man-made inerts)	Less than 2 percent dry weight basis
Biological Contaminants (pathogens)	
Fecal coliform	Less than 1,000 Most Probable Number (MPN) per gram, dry weight basis
Salmonella	Less than 3 MPN per 4 grams, dry weight basis

a. All product quality assurance testing for pollutant standards and biological contaminants required by this regulation or as requested by the Department shall be performed by a South Carolina certified laboratory and reported in a format acceptable to the Department.

b. All products marketed in South Carolina as a soil amendment or fertilizer shall be registered by the product manufacturer with the Clemson University Department of Plant Industry or as otherwise required by law or regulation.

#### GI. Additional Requirements for Permitted Facilities.

1. The Department may impose more stringent requirements than those outlined herein when additional measures are necessary, on a case-by-case basis, to protect public health and the environment from any potentially adverse effects. These requirements include, but are not limited to:

a. Analysis of individual feedstocks to identify any characteristics that may require special management or permit conditions;

b. Feedstock selection; the Department may determine on a case-by-case basis that a material shall not be used as feedstock due to its pollutant content or concentration, the material variability from the source, or its potential for creating adverse environmental effects;

c. Testing frequency and parameters;

d. Location, design, and operating criteria;

e. Monitoring and reporting, including but not limited to, monitoring of groundwater, surface water, soil, plant tissue, feedstocks and/or finished products;

f. Surface or pad requirements; or

g. Other requirements as necessary such as site assessments, groundwater sampling, and corrective action when environmental contamination from a permitted facility is suspected or confirmed.

2. The permittee may request that the Department remove from the permit the additional requirements described in this Part III.G.1 ~~from a permit~~ if, after two (2) years, those processes are proven to the Department to be effective ~~and those mixtures of feedstocks that are proven compatible for composting~~, as determined by the Department. In all cases, the Department shall retain the authority to determine the effectiveness of the process and/or feedstock mixture ~~to ensure it is protective for the protection~~ of human health, surface water standards, and groundwater standards.

#### HJ. Financial Assurance.

1. The requirements of this Section apply to all permitted facilities except those owned and operated by a local government, by a region comprised of local governments, or by state or federal government entities whose debts and liabilities are the debts and liabilities of the State or the U.S.

2. Prior to ~~accepting feedstocks~~ receiving a permit, ~~permitted facilities~~ applicants shall fund a financial responsibility assurance mechanism as described in R.61-107.19, SWM: Solid Waste Landfills and Structural Fill Part I.E, and approved by the Department to ensure the satisfactory closure of the facility as required by this regulation.

23. The permittee shall calculate and declare in the permit application the maximum amount in cubic yards of feedstocks, in-process material, and waste material that could be stored at the facility ~~in their application for a permit~~. A final closure cost estimate is required to provide funding for the third party costs to properly dispose of the maximum amount of material that the facility can store at any given time and perform any corrective action for soils and groundwater that the Department may require. The cost estimate shall account for tipping fees, material hauling costs, grading and seeding the site, labor, and the cost for soliciting third party bids to complete closure and restore the site to conditions acceptable to the Department.

a. The maximum capacity of a site shall be calculated in cubic yards assuming compliance with all buffers and spacing requirements. The Department shall use an average cost of disposal per ton of material in Class II landfills, as reported in the most recent Solid Waste Management Annual Report, when calculating the amount of financial assurance necessary for a site. ~~The closure cost estimate shall be three times the cost to dispose the maximum capacity of the site in a Class II landfill.~~

b. ~~During the active life of the facility, the permittee shall annually adjust the closure cost estimate when the disposal cost estimate increases substantially based on information published in the Solid Waste Management Annual Report.~~ Financial assurance shall be required for all material stored on site. Materials stored for further processing, such as the production of lumber or firewood, shall be stored outside of permitted operational areas of the facility, and if not stored in this fashion, shall be included in financial assurance requirements.

c. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan disposal costs, on-site conditions, or other factors increase the maximum cost of closure at any time during the site's remaining active life.

d. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if a release to the environment occurs to include cost of groundwater monitoring, assessment, and corrective action if the Department determines that these measures are necessary at any time during the active life of the facility. Financial assurance shall be maintained and adjusted annually until the Department agrees that environmental conditions meet applicable standards.

e. At any time during the remaining life of the facility, ~~The~~ permittee may reduce the closure cost estimate and the amount of financial assurance provided for proper closure if the cost estimate exceeds the maximum cost of closure ~~at any time during the remaining life of the facility~~. The permittee shall submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the Department for review and approval.

34. ~~The registrant or permittee shall provide continuous coverage for closure until released from financial assurance requirements, pursuant to this regulation.~~

45. The Department may take possession of a financial assurance fund for failure to complete closure in accordance with Part III.I or failure to renew or provide an alternate acceptable financial assurance mechanism.

#### K. Closure.

All facilities ~~will~~shall conduct final closure in accordance with the operational plan submitted to the Department and with the following requirements:

1. Operators of permitted facilities shall provide to the Department written notice of intent to close and their proposed closure date ~~to the Department~~;

2. Upon closing, permitted facilities shall immediately post closure signs at the facility;

3. Unless otherwise approved by the Department, within ninety (90) calendar days after closing ~~date~~, operators shall:

a. Remove all feedstocks, finished product, and wastes, except that mulch or Class A compost may be spread on the site to a maximum thickness of four inches if tilled into the soil prior to site stabilization;

b. As appropriate, grade land to promote positive drainage and stabilize the site to prevent erosion ~~and~~;

c. Appropriately manage all water collected in containment structures or ponds; and

d. Submit an annual report for the portion of the year during which the facility was operational, using the annual report form provided by the Department.

4. Permitted facilities with confirmed contamination shall amend ~~their~~ closure plan with to include post-closure corrective action requirements for approval by the Department when a facility's remediation activities ~~at the facility~~ continue beyond a facility's closure ~~of the facility~~.

5. Permitted facilities shall request that the Department inspect and approve closure. Upon Department approval of proper closure, the permittee shall be released from financial assurance requirements.

#### J. Permit Violations:

~~The Department may take civil or criminal action or issue penalties in accordance with Part I.D of this regulation for a violation of a permit issued pursuant to or in accordance with this regulation.~~

#### KL. Permit Suspension or Revocation.

1. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with, applicable laws, ~~regulations~~, or requirements, and ~~that~~ these violations would make the continuation of the permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit as appropriate and necessary.

a. The Department shall give notice by certified mail to the permittee of facts or conduct that warrant the intended action, and

b. The permittee shall be given an opportunity to show compliance with all lawful requirements for the retention of the permit.

2. ~~For the purposes of Part III.K, "hearing" means a conference between the Department and a permittee, during which the permittee is given opportunity to respond to a written notice of alleged violation, and may be accompanied by legal and/or technical counsel.~~

2. If the Department finds that public health, safety, or welfare imperatively requires emergency action, suspension of a permit may be ordered pending proceedings for revocation or other action.

3. If a suspension is issued to a permittee, it shall be issued per an order from the Department, which will direct a facility to cease operating or to cease accepting all types of feedstocks.

a. The suspension order will also include instructions for how the permitted facility can obtain compliance and a deadline by which the facility shall become compliant. Cited violations that may result in a suspension order include, but are not limited to, the following examples:

(1) A Department determination that a facility has exceeded its permitted capacity;

(2) A Department determination that a facility has not submitted to the Department the required amount of financial assurance, or the financial assurance that was submitted is no longer valid, has been cancelled, and not replaced for the facility site;

(3) A Department determination that a facility was issued a written directive or order with a deadline to become compliant but failed to do so by the communicated deadline;

(4) A Department determination that a materially false statement has been made by the facility in the application for a permit; or

(5) A Department determination that the facility has falsified or altered records that are required by this regulation.

b. The suspension shall last until the Department has determined that the facility is in compliance with its permit, applicable statutes or regulations, and/or a prior order, unless the Department designates a time that the facility's suspension will be rescinded.

c. The Department may decline to lift the permit suspension if a facility is cited for any additional violations during the initial suspension period. If a facility is cited for additional violations during the initial suspension period, the Department may only rescind the suspension after the facility achieves compliance with all violations cited by the Department.

d. All rescissions of a suspension shall be communicated to the facility by the Department in writing.

34. If, after a hearing, the Department determines that permit revocation is warranted, an administrative order revoking the permit will be issued.

#### Part IV. Permit Application.

A. Permit Application Process. The applicant shall submit a permit application to the Department. The permit application shall include one hard copy and one electronic copy of the following ~~in a format approved by the Department~~:

1. A completed and signed application form provided by the Department;

2. Tax map number for the site;

3. Proof of ownership or control of the property;

4. For Type Two or Type Three facilities, a signed statement, on a Department-provided form, from a South Carolina licensed professional engineer, ~~on the form provided by the Department~~, certifying that the site design is compliant with the requirements of this regulation;

5. A vicinity map that shows the location of the facility and the area that is within one mile of the property boundary;

6. A site plan on a scale of not greater than 100 feet per inch that shall, at a minimum, identify the following:

a. The facility perimeter, the operational area, and all storage areas with measurements in feet;

b. Compliance with required buffers as outlined in ~~Part III.C~~ of this regulation;

c. Property lines, access roads, gates, fences, natural barriers, or other Department-approved means of preventing unauthorized access and dumping;

d. A topographical survey of the site depicting two-foot contours at a minimum, and six-inch contours for sites evaluated for consistency with the South Carolina Coastal Zone Management Plan;

e. A description of any Best Management Practices (BMPs) used for the management of storm water;

f. The location of, and distance to, any Waters of the ~~U.S. State~~ on site of the facility or within the buffer areas described in ~~Part III.C~~;

7. An operational plan that shall contain all items as required under ~~Part III.E.15~~ of this regulation;

8. Any request for a variance as allowed by this regulation; and

9. A final closure cost estimate pursuant to ~~Part III.H.2~~ of this regulation, and documentation that the applicant has secured appropriate financial assurance.

#### B. Notice.

1. Within fifteen (15) days of submitting an application to the Department, ~~the~~ an applicant for a prospective Type Two and/or Type Three facility shall give notice ~~that he/she has requested a permit to operate~~ of the proposed activity. Notice shall be sent, via certified mail that a permit to operate has been applied for, to the county administrator, the county planning office, and all owners of real property as they appear on the county tax maps, as contiguous landowners of the proposed permit area, including properties that are across a road or any other right-of-way that may separate the parcels. This notice shall contain:

a. The name and address of the applicant;

b. The type of facility and what it will produce, for example, mulch, compost;

c. A detailed description of the location of the facility, using road numbers, street names, and landmarks, as appropriate;

d. A description of the feedstocks the facility will utilize;

e. Department locations (Central Office and appropriate Regional Office) where a copy of the permit application will be available for review during normal working hours; and

f. The Department address and contact name for submittal of comments and inquiries.

2. The applicant shall provide evidence of noticing as required in ~~Part IV.B.1~~this regulation to the Department.

3. A comment period of not less than thirty (30) calendar days from the date of Noticing will be provided ~~prior to~~before issuance of a Department Decision.

4. Notice of the Department Decision regarding the permit application will be sent to the applicant, ~~to~~ affected persons or interested persons who have asked to be notified, ~~to~~ all persons who commented in writing to the Department, and ~~to~~ the facility's host county. The use of certified mail to send Notice of the Department's Decision shall be at the discretion of the Department unless specifically requested in writing by an interested person.

#### C. Application Review and Permit Decision.

~~1. All information submitted to the Department shall be complete and accurate.~~

~~21. Whenever the~~If an applicant submits an incomplete application, the Department shall notify the applicant in writing. If the requested information is not provided within one hundred eighty (180) calendar days of receipt of the notification, the application may be ~~denied~~considered withdrawn. The Department will notify the applicant in writing when an application is considered withdrawn.

~~32. The Department shall deny a permit for a facility that it has determined~~s does not meet the requirements of this regulation.

~~43. The Department may attach~~include additional conditions ~~to~~in a permit when the Department ~~has determined~~s that the operation requires safeguards to protect human health and safety or the environment.

#### D. Permit Modifications.

Permit modifications must be requested in writing and may not be implemented without prior written consent from the Department. The Department may require Noticing as described in ~~Part IV.B~~ of this regulation for modifications that impact the allowable feedstock categories, that impact buffers, or that the Department determines may otherwise impact adjoining properties.

#### E. Transfer of Ownership.

1. The Department may, upon written request, transfer a permit, as appropriate, to a new permittee where no other change in the permit is necessary.

~~2. The proposed new owner of a permitted or registered facility shall, prior to the scheduled change in ownership, submit to the Department:~~

~~a. A one hard copy and one electronic copy of a completed permit application in a format approved by the Department. A completed and signed application form provided by the Department;~~

~~b. A written agreement signed by both parties indicating the intent to change ownership or operating responsibility of the facility;~~

~~c. A disclosure statement in accordance with S.C. Code Section 44-96-300, except that local government and regions comprised of local governments are exempt from this requirement; and~~



~~ed. Documentation of financial assurance as required. The previous owner shall maintain financial assurance responsibilities until the new owner can demonstrate satisfactory compliance with Part III.H of this regulation.~~

3. The Department may approve transfer of the permit to the new owner provided:

a. The facility is in compliance with all permit requirements and with this regulation;

b. The new owner has agreed in writing to assume full responsibility in accordance with this regulation, the facility permit, and the approved operational plan; and

c. The new owner has funded an adequate financial assurance mechanism in accordance with the requirements of this regulation.

4. The previous owner shall maintain the existing financial assurance mechanism until the new owner can demonstrate financial responsibility in accordance with this regulation.

25. The new owner shall submit legal documentation of the transfer of ownership of the facility within fifteen (15) days of the actual transfer.

#### Part V. General Permits.

A. General Permit Issuance. The Department may issue one or more general permits for facilities described as Type One and Type Two facilities.

1. A general permit shall, at a minimum, outline the following:

a. Noticing requirements, including Intent to Operate and public Noticing;

b. Location, siting, and design criteria;

c. Operating, monitoring, and reporting criteria;

d. Financial assurance requirements; and

e. Closure requirements.

2. A general permit pursuant to this Section, may be issued, modified, or terminated in accordance with applicable requirements, terms, and conditions of this regulation.

3. The Department shall publish a notice of any general permit issued, modified, or terminated.

#### B. Application for Coverage under a General Permit.

1. An operator seeking coverage under a General Permit shall request approval from the Department with a completed Notice of Intent form provided by the Department.

2. A Notice of Intent shall include signatures of the permit applicant and of the landowner, a signed certification that operations will be conducted in accordance with the General Permit, and evidence that the

applicant has secured a ~~F~~financial ~~A~~assurance mechanism in accordance with ~~Part III.H~~the requirements of this regulation.

3. The applicant shall also provide a copy of the Notice of Intent to the appropriate local government.

4. A facility may begin operating under a General Permit after a written approval from the Department has been received by the facility operator. Written approval shall not be issued less than thirty (30) days of the date of submission of the Notice of Intent.

### C. Corrective Measures and General Permit Revocation.

1. Upon a determination by the Department and written notification that the facility operating under a general permit poses an actual or potential threat to human health or the environment, the Department may require the permittee to implement corrective measures as appropriate.

2. Approval to operate under a General Permit may be revoked for failure to comply with the conditions of the General Permit or this regulation.

a. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with a general permit, and that these violations would make continuation of the approval to operate under a general permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, revoke the approval to operate as appropriate and necessary.

b. For the purposes of ~~Part V.C~~this regulation, "hearing" means a conference between the Department and a permittee, during which the permittee is given opportunity to respond to a written notice of alleged violation, and may be accompanied by legal and/or technical counsel, at the conference.

c. If, after a hearing, the Department determines that approval to operate under authority of a general permit should be revoked, an administrative order revoking the approval will be issued.

### ~~Part VI. Prohibitions.~~

~~A. Open dumping of land-clearing debris, yard trimmings and other organics is prohibited.~~

~~B. Open burning of land-clearing debris, yard trimmings and other organics is prohibited except as approved by the Department for emergency storm debris management or as allowed by Air Pollution Control Regulations and Standards R.61-62.2, Prohibition of Open Burning.~~

### 61-107.4 Appendix: Feedstock Categories

#### A. Feedstock Categories.

This Appendix defines categories of common organic feedstocks for composting. The feedstock characteristics of Carbon-to-Nitrogen ratio, moisture, pathogen content, source variability, non-compostable contaminants, trace metals, and toxic metals content are considered when assessing appropriate facility design features and quality assurance monitoring necessary to produce beneficial products in an environmentally protective process. The Department will use these characteristics to assign the category and level of risk posed for any feedstock not listed here. Any mixture of feedstocks for composting shall assume the level of risk for the most problematic feedstock in the mixture.

### 1. Feedstock Category One.

Category One feedstocks have a high Carbon-to-Nitrogen ratio and pose limited risk of contamination from pathogens, trace metals, hazardous constituents, or physical contaminants that are not compostable. These feedstocks also have low moisture content. Grass clippings have a lower Carbon-to-Nitrogen ratio than other Category One feedstocks, but are included in this category because they are commonly collected with leaf and limb debris. This category includes only:

- a. Yard trimmings, leaves, and grass clippings;
- b. Land-clearing debris;
- c. Wood, Woodchips, and sawdust, from untreated and unpainted wood that has not been in direct contact with hazardous constituents;
- d. Agricultural crop field residuals;
- e. Compostable bags commonly used for collecting and transporting yard trimmings, leaves, and grass clippings; and
- f. Similar materials as specifically approved in writing by the Department.

### 2. Feedstock Category Two.

Category Two feedstocks have a lower Carbon-to-Nitrogen ratio than Category One feedstocks, have a high moisture content, and are more likely to contain pathogens, trace metals, or physical contaminants that are not compostable. This category includes only the following source-separated materials:

- a. Non-meat food processing wastes, including marine shells and dairy processing wastes;
- b. Produce and non-meat food preparation residuals generated by wholesale or retail sales establishments or food service establishments;
- c. Plate scrapings including cooked meats generated by food service establishments;
- d. Manufactured compostable products and waste paper products that are
- e. Animal manures and materials incidental to its collection as defined in ~~Part I.B~~ of this regulation;
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing only Category One or Category Two feedstocks; and
- g. Industrial wastes/sludges that meet the waste characterization requirements found in R.61-107.19, Part IV, Section A for disposal into a Class II Landfill; and
- gh. Similar materials as specifically approved in writing by the Department.

### 3. Feedstock Category Three.

This category includes feedstocks that have the most risk from trace metals, source variability, physical contaminants, pathogens, and other properties that may be detrimental to plants, soils, or living organisms

in high concentrations. These feedstocks require more intensive analysis and monitoring prior to being incorporated into the active composting area and require approval for composting by the Department on a case-by-case basis. This category includes:

- a. Sewage sludge;
- b. Industrial sludges, except as specifically identified in Section A.2 of this Appendix;
- c. Drinking water treatment sludge;
- d. Fats, oils, and greases (FOG);
- e. Animal-derived residuals except as specifically identified in Section A.2 of this Appendix;
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing Category Three feedstocks;
- g. Other industrially produced non-hazardous organic residuals not previously categorized in this Appendix; and
- h. Other organic materials not prohibited below, as approved by the Department.

B. Prohibited Feedstocks. Composting of materials containing the following items is not allowable under this regulation:

1. ~~Mixed-municipal~~ Municipal solid waste, except those activities under which after a two-year period of operation in compliance with a permit issued under authority of R.61-107.10, SWM: Research, Development, and Demonstration Permit Criteria, have been determined by the Department to have adequately achieved their objectives and satisfactorily protected public health, safety, and the environment;
2. Friable and non-friable asbestos as defined by R.61-86.1, Standards Of Performance For Asbestos Projects;
3. Biomedical or infectious wastes as defined by R.61-105, Infectious Waste Management;
4. Hazardous waste as defined by Resources Conservation and Recovery Act (RCRA), Public Law 94-580, and R.61-79, Hazardous Waste Management Regulations, promulgated pursuant to the South Carolina Hazardous Waste Management Act (SCHWMA), as amended, S.C. Code Ann. Sections 44-56-10 et seq.;
5. Materials for compost or mulch production with that contain or are contaminated with Polychlorinated biphenyl (PCB) where concentrations are greater than quantifiable detection limits;
6. Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended;
7. Radioactive material managed pursuant to R.61-63, Radiological Materials (Title A); and
8. Materials resulting from coal combustion, including but not limited to, fly ash, bottom ash, boiler slag, and flue gas desulfurization materials.

**Fiscal Impact Statement:**

The amendments have no substantial fiscal or economic impact on the state or its political subdivisions. There are no anticipated additional costs by the Department or state government due to any requirements of this regulation.

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:** R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals.

**Purpose:** The Department amends R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, to improve environmental protection, to clarify the applicability of regulatory requirements, and to ensure adequate financial resources are available to remove waste and properly close facilities. Changes correct typographical errors, improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling, to improve the overall text of the regulation.

**Legal Authority:** 1976 Code Section 44-96-10 et seq., as amended.

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

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

The Department amends R.61-107.4 to clarify the applicability of the regulation, to update definitions, to improve environmental protection by adding fire prevention and material management requirements, and to ensure adequate financial assurance is available to properly close facilities.

The Department also amends to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention. These include correcting regulation references, updating definitions, adding and/or omitting language and punctuation, clarification, reorganizing sections for consistency, and other such changes.

The amendments seek to simplify, clarify, and correct elements of the Department's solid waste composting regulations while supporting the Department's goal of promoting and protecting the health of the public and the environment in an efficient and effective manner.

**DETERMINATION OF COSTS AND BENEFITS:**

The Department does not anticipate any significant increase in costs to the state or its political subdivisions resulting from these proposed revisions. Staff time associated with a new requirement for a letter of concurrence for conditionally exempt facilities can be absorbed at current staffing levels.

Changes to the method for calculating closure costs will benefit both the Department and the regulated community by clarifying the amount of financial assurance needed by regulated facilities. This change may result in increased cost estimates for some facilities and decreased cost estimates for others.

The requirement for visual markers will also help improve the accuracy of cost estimates. Improving the accuracy of cost estimates may provide a cost savings to the state by helping ensure adequate financial assurance is secured, thus decreasing the likelihood that public funding would be needed to remove waste and properly close a facility, should it cease operating.

Political subdivisions that operate compost facilities may see a small cost related to implementing the requirements for visual markers and for measuring mulch pile temperatures; however there may also be a benefit of a decreased likelihood of compost facility fires, reducing the need for emergency response by the state and/or local governments.

#### UNCERTAINTIES OF ESTIMATES:

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

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

These amendments seek to provide continued state-focused protection of the environment and public health.

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

The state's authority to adequately oversee solid waste composting and wood-grinding facilities would be compromised if these amendments are not adopted in South Carolina. Without the changes, the state would lack the authority necessary to ensure that facility operators are being adequately protective of the environment, and the state would be unable to ensure that financial resources are available to properly close a facility.

#### **Statement of Rationale:**

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

The Department amends R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, to clarify changes made to the regulation in 2014, to improve environmental protection, and to correct typographical errors, citation errors, and other errors and omissions. These amendments expand and clarify definitions, expand and clarify permit exemptions, expand and clarify operational criteria, improve environmental safety, and help ensure adequate financial assurance will be available to the Department to properly close a facility should it cease operating. The changes improve the regulation's organizational structure, and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of the regulation.

**ATTACHMENT B**

**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**

**Document No. 5003**

**R. R.61-107.4, SOLID WASTE MANAGEMENT: COMPOST AND MULCH PRODUCTION FROM LAND-CLEARING DEBRIS, YARD TRIMMINGS AND ORGANIC RESIDUALS**

**As of the November 23, 2020, close of the Notice of Proposed Regulation comment period:**

<b>Name</b>	<b>Section</b>
County of Lexington – David L. Eger, Director of Solid Waste Management	Part I, Section A. Applicability, 3
<p><b>Comment:</b> Pallets are a significant contributing waste stream that can be safely ground with organics and composted, reducing landfill volume. Request that the regulations be revised to permit the grinding and composting of pallets. Also Page 37, Add Pallets to 61-107.4 Appendix: Feedstock Categories, Feedstock Category 1.</p> <p><b>Department Response:</b> No change. The Lexington County facility may grind pallets without a permit if located outside of the operational area. As an alternative, the county could request an amendment to its operating plan to manage pallets as a “similar material” to Feedstock Category One, and allowable as specified in Appendix Part A.1.F.</p>	
<b>Name</b>	<b>Section</b>
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section D. Design Criteria, 8
<p><b>Comment:</b> This requirement seems excessive. Our entire facility is an operating area and based on markers every 300 feet would require over 15 markers just around the boundary of the 24 acre facility, not including designating areas where material is being stored, processed and finished. All areas should be clearly designated on the plans provided and approved with the permit. Recommend eliminating this provision and associated sections.</p> <p><b>Department Response:</b> No change. The Department does not stipulate how the markers are to be constructed and does not feel this is a prohibitively expensive requirement. Storage of material beyond a facility’s storage limit is considered by the Department to be a serious violation. Markers will help the permittee comply with their storage limits and will help the Department determine whether or not they are compliant.</p>	
<b>Name</b>	<b>Section</b>
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section E. General Operating Criteria, 1, a

**Comment:**

This requirement should not be applied to Type One (1) facilities. Category 1 feedstocks do not require immediate processing. Most of these type of facilities, such as ours, do not have personnel available to be present for every load of clean wood waste delivered to the site and cannot afford to do so. We understand this requirement for Types 2 and 3 which include food waste, sludge, etc. that must be processed as the material comes in.

**Department Response:**

No change. The Department has discussed this comment with the commenter to clarify that having personnel at the gate or scales of the facility would serve to meet this requirement and would not require additional personnel or staffing.

Name	Section
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section E. General Operating Criteria, 5. Reporting and Records Retention .... b, (2)

**Comment:**

Add a new (d.) “Used on Landfill slopes or other areas on landfill property to promote plant growth and erosion control.” Make d (e.) Disposal in a landfill and .... This is a good outlet for compost/mulch and is not putting the material into the landfill.

**Department Response:**

Noted. This change is not necessary, as the use suggested by the commenter is allowable and would be covered under Part(2)(b) if used offsite of the compost facility itself.

Name	Section
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section F. Material Management for Permitted Facilities, 2, a and Part III, Section E. General Operating Criteria, 5, c.

**Comment:**

Point of clarification, are you going to require weekly temperature readings for all “mulch piles” on site? This requirement will of necessity increase personnel requirements and therefore cost. Page 4 of your document notes “The proposed amendments have no financial fiscal or economic impact on the State or its political subdivisions.” This requirement will impact the County significantly driving up the cost of the operation unnecessarily. We monitor our piles and move the material into windrows as soon as practical. Monitoring every pile of mulch on site weekly will require more personnel and time. See also, page 24 2, a.

**Department Response:**

Noted. Due to the risk of fires, the Department believes it is important to monitor mulch piles; however, the Department would consider alternative methods for doing so. This provision was already noted in Part III.F.2.c, and to further clarify, the Department has added the following to Part III.F.2.a: “a. The temperature of each pile shall be measured weekly or as otherwise approved in the operational plan.”



Name	Section
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section E. General Operating Criteria, 6. Operation Plans, c, (6), (a)
<p><b>Comment:</b> Eliminate the need to have samples go only to “SC” certified laboratories. We use a lab in Indiana as required by the US Composting Council. Recommend changing to allow just a “Certified Laboratory”.</p> <p><b>Department Response:</b> No change is necessary. Out-of-state facilities may apply to the Department for South Carolina certification.</p>	
Name	Section
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section E. General Operating Criteria, 7
<p><b>Comment:</b> Operationally, this cannot be done. We cannot turn off the waste stream coming into the facility. An alternative area on the facility should be used to receive material until the primary area (where the fire occurred) is clear. This can be determined by the facility operator and not dependent on the Department. This is similar to the way this is handled for fires on the Landfill. The Department is notified of the event and at their discretion an inspection occurs – the operation continues with waste being place in an alternate area until the area that had fire is clear, which the operator determines.</p> <p><b>Department Response:</b> Noted. To address the commenter’s concerns, the Department has changed Part III.E.7.b to “Cease accepting incoming waste <u>or divert it to another area of the facility. If waste is diverted to another area of the facility, notification must be included as described in (a) above;</u>”.</p>	
Name	Section
County of Lexington – David L. Eger, Director of Solid Waste Management	Part III, Section E. General Operating Criteria, 8
<p><b>Comment:</b> This is excessive oversight. Equipment breakdown is a part of any operation. If an “essential” piece of equipment is down affecting operations, the Operator will quickly repair or rent equipment to maintain the operation. We cannot cease taking material at an operation like ours. The monthly inspection by Department personnel should provide a determination as to whether the facility is being operated properly. Recommend elimination of this provision.</p> <p><b>Department Response:</b> Agreed. The Department has removed Part III.E.8 from this regulation.</p>	