



Mark R. Elam, Chairman
Charles M. Joye, II, P.E., Secretary
J.B. (Sonny) Kinney
Seema Shrivastava-Patel

Board:
Richard V. Lee, Jr.
Alex A. Singleton
Jim P. Creel, Jr.

South Carolina Board of Health and Environmental Control

Agenda

August 8, 2019

***Call to Order – 10:00 a.m., Board Room (#3420)
South Carolina Department of Health and Environmental Control,
2600 Bull Street, Columbia, S.C.***

1. Minutes of July 11, 2019 meeting
2. Governor's Cup Presentation
3. Administrative and Consent Orders issued by Health Regulation
4. Administrative and Consent Orders issued by Environmental Affairs
5. Request for a second nine-month Board extension of Certificate of Need (CON) SC-16-19, issued to Trident Medical Center, LLC d/b/a Berkeley Medical Center (BMC) for construction of a new 50 bed acute care hospital to include an MRI and a CT scanner.
6. **Public Hearing and Request for Final Approval**, R.61-23, Control of Anthrax – Proposed Repeal, Doc. No. 4880
7. **Public Hearing and Request for Final Approval**, R.61-62, Air Pollution Control Regulations and Standards – Proposed Amendment, Doc. No. 4881 (exempt from General Assembly review)
8. Notice of Proposed Regulation Amending R.61-9, Water Pollution Control Permits.
9. Notice of Proposed Regulation Amending R.61-68, Water Classifications and Standards.
10. Notice of Proposed Regulation Amending R.61-69, Classified Waters.
11. Notice of Proposed Regulation Amending R. 61-43, Standards for the Permitting of Agricultural Animal Facilities
12. Placement of N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8, and 4-Chloro-a-PVP in Schedule I
13. Agency Affairs
14. Election of Vice-Chairman

15. Appointment of Board Representative to SC Health Planning Committee

Executive Session (if needed)

Adjournment

Note: The next scheduled meeting is September 12, 2019.

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL


August 8, 2019

() ACTION/DECISION
(X) INFORMATION

- I. TITLE:** Health Regulation Administrative and Consent Orders.
- II. SUBJECT:** Health Regulation Administrative Orders and Consent Orders for the period of April 1, 2019 through June 30, 2019.
- III. FACTS:** For the period of April 1, 2019 through June 30, 2019, Health Regulation reports 14 Consent Orders and 1 Emergency Suspension Order totaling \$132,725 in assessed monetary penalties. No Administrative Orders were issued during the reporting period.

Health Regulation Bureau	Facility, Service, Provider, or Equipment Type	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
Health Facilities Licensing	Hospital	0	2	0	47,700
	Nursing Home	0	1	0	6,200
	Renal Dialysis	0	1	0	500
	Residential Treatment Facility for Children & Adolescents	0	1	0	15,800
	Community Residential Care Facility	0	4	0	43,200
	Tattoo	0	1	0	12,200
EMS & Trauma	Paramedic	0	0	1	0
Radiological Health	Chiropractic	0	2	0	3,400
	Podiatry	0	1	0	1,885
	Dental	0	1	0	1,840
TOTAL		0	14	1	\$132,725

Submitted By:


Gwen C. Thompson
Interim Director
Health Regulation

HEALTH REGULATION ENFORCEMENT REPORT
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

August 8, 2019

Bureau of Health Facilities Licensing

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Hospital	104	15,130

1. Trident Medical Center – North Charleston, SC

Inspections and Investigations: The Department conducted a complaint investigation in September 2017 and a routine inspection in December 2018, and found regulatory violations, including violations that the facility had not corrected between the two visits. The facility had prior approval from the Department to use a unit on the fourth floor as an overflow area of the emergency department to address an increased population of behavioral health patients in the emergency department. However, during both visits, the Department observed the beds being used for admitted inpatients.

Violations: The Department cited the facility during the 2017 investigation for having beds set up in the fourth floor unit that were in use and occupied by patients who had been admitted to the hospital as patients and who were receiving psychiatric care. During the December 2018 inspection, the Department found that the beds remained set up and in use for admitted inpatients of the hospital receiving psychiatric care in the fourth floor unit. The Department cited the facility for not applying for an amended license, for continuing to utilize the emergency department holding area and overflow beds located on the fourth floor as beds for inpatient psychiatric patients, and for failing to ensure patients had access to hot water.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In April 2019, the parties executed a consent order imposing a civil monetary penalty of \$40,000 against the facility. The facility was required to pay \$20,000 within 30 days of executing the Consent Order. The remaining \$20,000 will be held in abeyance for six months. The facility has made the required payment. The facility has since applied for and received an amended license for the addition of eight psychiatric beds effective June 17, 2019.

Prior Actions: None.

2. Regional Medical Center of Orangeburg and Calhoun Counties – Orangeburg, SC

Inspections and Investigations: The Department conducted routine inspections, food and sanitation inspections, and complaint investigations in 2016 and 2017, and found several regulatory violations.

Violations: The Department found that during the 2016 and 2017 inspections and investigations, the facility failed to give Department inspectors access to records, failed to staff nursing services, failed to properly administer and dispose of medication, failed to comply with kitchen regulations, and failed to establish policies and procedures to prevent waterborne microbial contamination with the water distribution system.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In April 2019, the parties executed a consent order imposing a civil monetary penalty of \$7,700 against the facility. The facility was required to pay the \$7,700 within 30 days of executing the Consent Order. The facility has made the required payment.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Nursing Home	193	20,422

3. Riverside Health and Rehabilitation – North Charleston, SC

Inspections and Investigations: The Department conducted complaint investigations in January and November 2018 and an inspection in August 2018, and found several regulatory violations.

Violations: The Department found that during the 2018 investigations and inspection, the facility had 14 violations, related to, among other things, documentation and record keeping, medication administration, the Bill of Rights for Residents of Long-Term Care Facilities, and pest control.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In June 2019, the parties executed a consent order imposing a civil monetary penalty of \$6,200 against the facility. The facility was required to pay \$3,200 within 30 days of executing the Consent Order. The remaining \$3,000 will be held in abeyance for six months. The facility has made the required payment. As a term of the Consent Order, the facility agreed to schedule and attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The compliance assistance meeting has been scheduled to be conducted within the required timeframe.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Stations
Renal Dialysis	159	3,086

4. FMC Dialysis Services/Low Country Dialysis – Port Royal, SC

Inspections and Investigations: The Department conducted an investigation in July 2018 and a routine follow-up inspection in October 2018, and found several regulatory violations.

Violations: The Department cited the facility for two violations during the July 2018 investigation and October 2018 inspection. One violation was the failure to ensure that equipment used in dialysis-related water procedures was in good repair. The other violation was the failure to notify the Department of the replacement of the reverse osmosis system, including all equipment and piping.

Enforcement Action: The parties conducted an enforcement conferences and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a civil monetary

penalty of \$500 against the facility. The facility was required to pay \$500 within 30 days of executing the Consent Order. The facility has made the required payment.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Residential Treatment Facility for Children and Adolescents	11	624

5. Palmetto Pee Dee Residential Treatment Center – Florence, SC

Inspections and Investigations: The Department conducted several routine inspections, follow-up inspections, food and sanitation inspections, fire and life safety inspections, and investigations in 2018 and 2019, and found that the facility had a lot of regulatory violations, some of which were repeated violations.

Violations: The Department found that between 2018 and 2019, the facility had 17 violations, some of which were repeat violations, related to, among other things, policies and procedures, individual treatment plans, staffing, residents' rights, medication management and administration, and housekeeping.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In June 2019, the parties executed a consent order imposing a civil monetary penalty of \$15,800 against the facility. The facility was required to pay \$10,000 within 30 days of executing the Consent Order. The facility has made the required payment. As a term of the Consent Order, the facility agreed to not have a census greater than 40 residents for a period not to exceed six months from executing the Consent Order at the Department's discretion. According to the facility's website, the facility announced its intent to close effective June 30, 2019.

Prior Actions: In January 2018, the parties executed a consent order imposing a civil monetary penalty of \$19,700 against the facility, which they paid. As a term of the Consent Order, the facility participated in a compliance assistance meeting with the Department. The Department continued to closely monitor the facility and as a result, determined to take the June 2019 action.

Facility Type	Total # of Licensed Facilities	Total # of Licensed Beds
Community Residential Care Facility	499	21,195

6. Dorch Community Residential Care Facility – Manning, SC

Inspections and Investigations: The Department conducted several routine inspections, follow-up inspections, and fire and life safety inspections in 2017 and 2018, and found that the facility had many regulatory violations, some of which were repeated violations.

Violations: The Department found that between 2017 and 2018, the facility had 43 violations, some of which were repeat violations, related to, among other things, staff training and documentation, resident record documentation, the kitchen, housekeeping, and fire and life safety.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In April 2019, the parties executed a consent order imposing a civil monetary penalty of \$18,200 against the facility. The facility was required to pay \$6,000 of the assessed monetary penalty in four monthly installments of \$1,500 starting with the first payment due within 30 days of executing the Consent Order. The remaining \$12,200 will be held in abeyance for six months. The facility has made three of the four monthly installment payments. As a term of the Consent Order, the facility agreed to schedule and attend a compliance assistance meeting with the Department within 45 of executing the Consent Order. The facility has participated in the required compliance assistance meeting.

Prior Actions: None.

7. Dalton's CMC Residential Care Facility – Orangeburg, SC

Inspections and Investigations: The Department conducted several routine inspections, follow-up inspections, food and sanitation inspections, and complaint investigations in 2017 and 2018. During that same timeframe, the Department issued five citations by mail to the facility.

Violations: The Department found that between 2017 and 2018, the facility had 33 violations, some of which were repeat violations, related to, among other things, renewal applications, plans of correction, residents' finances, medications, the kitchen, staff health assessments, and patient physical examinations.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a civil monetary penalty of \$10,800 against the facility. The facility was required to pay \$6,000 of the assessed monetary penalty in four monthly installments of \$1,500 starting with the first payment due within 30 days of executing the Consent Order. The remaining \$4,800 will be held in abeyance for six months. The facility has made the first of the four monthly installment payments. As a term of the Consent Order, the facility agreed to schedule and attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The facility has participated in the required compliance assistance meeting.

Prior Actions: None.

8. Care with Love – North Charleston, SC

Inspections and Investigations: The Department conducted several routine inspections and food and sanitation inspections from 2017 to 2019. During that same timeframe, the Department issued a citation by mail to the facility.

Violations: The Department found that from 2017 and 2019, the facility had 9 violations, all of which were repeat violations, related to, the failure to have a licensed administrator, the failure to ensure initial and annual resident exams, the failure to properly store medication, and the failure to ensure food safety.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a civil monetary penalty of \$3,500 against the facility. The facility was required to pay \$1,400 of the assessed monetary penalty in four monthly installments of \$350 starting with the first payment due within 30 days of executing the Consent Order. The remaining \$2,100 will be held in abeyance for six months. The facility has made the first of the four monthly installment payments. As a term of the Consent Order, the facility agreed to suspend admissions of new residents until the facility provides documentation that the facility's administrator is licensed as a community residential care facility administrator. Additionally, the facility

agreed to schedule and attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The facility has participated in the required compliance assistance meeting.

Prior Actions: None.

9. Care With Love II – North Charleston, SC

Inspections and Investigations: The Department conducted several routine inspections and investigations in 2017 and 2018. During that same timeframe, the Department issued a citation by mail to the facility.

Violations: The Department found that between 2017 and 2018, the facility had 24 violations, some of which were repeat violations, related to, among other things, documentation and record keeping, licensed bed capacity, medication, evacuation plans, and chemical storage.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a civil monetary penalty of \$10,700 against the facility. The facility was required to pay \$4,100 of the assessed monetary penalty in four monthly installments of \$1,025 starting with the first payment due within 30 days of executing the Consent Order. The remaining \$6,600 will be held in abeyance for six months. The facility has made the first of the four monthly installment payments. As a term of the Consent Order, the facility agreed to suspend admissions of new residents until the facility provides documentation that the facility's administrator is licensed as a community residential care facility administrator. Additionally, the facility agreed to schedule and attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The facility has participated in the required compliance assistance meeting.

Prior Actions: None.

Facility Type	Total # of Licensed Facilities	Total # of Stations
Tattoo Facility	116	471

10. Lucky Dice Tattoo II – Tattoo Facility

Inspections and Investigations: The Department conducted inspections in November 2017 and August 2018 and found several violations. In addition, the Department offered a consultation in May 2018, and issued citations by mail in April 2018 and September 2018.

Violations: The Department found that between 2017 and 2018, the facility had 34 violations related to, among other things, documentation and record keeping, access to facility, plans of correction, staff records and training, client records, and sterilization records.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a civil monetary penalty of \$12,200 against the facility. The facility was required to pay \$5,000 of the assessed monetary penalty in three monthly installments with the first payment of \$1,666.66 due within 30 days of executing the Consent Order. The remaining \$7,200 will be held in abeyance for six months. The Department has received two of the three monthly installments. As a term of the Consent Order, the facility agreed to

schedule and attend a compliance assistance meeting with the Department within 45 days of executing the Consent Order. The facility has participated in the required compliance assistance meeting.

Prior Actions: None.

Bureau of Emergency Medical Services and Trauma

Provider Type	Total # of Certified Paramedics
Paramedic	3,858

11. Chip Seagle – Paramedic

Inspections and Investigations: The Department was notified of Mr. Seagle’s arrest in March 2019 and initiated an investigation. DHEC found that Mr. Seagle was arrested in March 2019 for possessing less than one gram of methamphetamine or cocaine base, and it was a first offense.

Violations: The Department is authorized by state law to take enforcement action against the holder of a (paramedic) certificate at any time it is determined that the (paramedic certificate) holder is guilty of misconduct. Misconduct is defined, in part, to include while holding a (paramedic) certificate, the (paramedic certificate) holder was convicted of or currently under indictment for a felony or another crime involving moral turpitude, drugs, or gross immorality. The Department is further authorized to suspend a (paramedic) certificate pending the investigation of any complaint or allegation regarding the commission of an offense, including but not limited to, those described above.

Enforcement Action: The Department is authorized by state law to issue orders whenever it finds that an emergency requires immediate action to protect the public life and health. Based on Mr. Seagle’s arrest for the abovementioned crime involving drugs, and pursuant to state law, the Department determined the paramedic certificate issued to Mr. Seagle must be immediately suspended on an emergency basis pending further investigation of Mr. Seagle’s criminal matters. The Department is continuing to monitor Mr. Seagle’s criminal matter.

Prior Actions: None.

Bureau of Radiological Health

Facility Type	Total # of Registered Facilities
Chiropractic	482

12. Ed Boren, DC – Easley, SC

Inspections and Investigations: The Department conducted several routine inspections, including August 2010, October 2013, February 2017, and most recently in September 2018, and found that the registrant repeatedly violated the same regulatory requirement.

Violations: The Department found that the registrant violated the X-Rays Regulation by failing to show records of equipment performance testing during the most recent inspection and had been cited for the same violation on three previous inspections. Specifically, the registrant failed to show that their medical x-ray equipment had been tested annually. The registrant submitted a record of equipment performance testing to DHEC the day after the most recent inspection.

Enforcement Action: The parties conducted an enforcement conference and the registrant submitted a corrective action plan in preparation for the conference. The parties agreed to resolve the matter by consent order. In April 2019, the parties executed a consent order imposing a civil monetary penalty of \$1,700 against the registrant. The registrant was required to pay \$425 within 30 days of executing the Consent Order with the remaining \$1,275 held in abeyance for 24 months. The registrant has made the required payment.

Prior Actions: None.

13. Marone Family Chiropractic, P.A. – Simpsonville, SC

Inspections and Investigations: The Department conducted several routine inspections, including October 2012, October 2015, and most recently in April 2018, and found that the registrant repeatedly violated the same regulatory requirement.

Violations: The Department found that the registrant violated the X-Rays Regulation by failing to show records of equipment performance testing during the most recent inspection and had been cited for the same violation on two previous inspections. Specifically, the registrant failed to show that their medical x-ray equipment had been tested annually. The registrant submitted a corrective action plan to DHEC subsequent to the most recent inspection.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In April 2019, the parties executed a consent order imposing a civil monetary penalty of \$1,700 against the registrant. The registrant was required to pay \$425 within 30 days of executing the consent order with the remaining \$1,275 held in abeyance for 24 months. The registrant has made the required payment.

Prior Actions: None.

Facility Type	Total # of Registered Facilities
Podiatry	63

14. Bruce H. Wellmon, DPM – Gaffney, SC

Inspections and Investigations: The Department conducted several routine inspections, including November 2001, April 2005, August 2008, July 2013, and most recently in November 2018, and found that the registrant repeatedly violated the same regulatory requirement and had an additional regulatory violation.

Violations: The Department found that the registrant violated the same X-Rays Regulation requirement by failing to show records of equipment performance testing during the most recent inspection and had been

cited for the same violation on four previous inspections. Specifically, the registrant failed to show their medical x-ray equipment was tested annually. A few days after the most recent inspection, the registrant submitted a record of equipment performance testing by a Department-registered vendor that had been conducted prior to the inspection. However, the Department determined that the submitted testing was noncompliant and required the registrant to submit a written corrective action plan. The registrant submitted a corrected equipment performance test in December 2018. The registrant also violated the X-Rays Regulation by failing to produce documentation of an established repeat analysis program. The X-Rays Regulation requires the analysis of repeats to be done at least quarterly and include the overall repeat rate and the causes of the repeats.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a \$1,885 civil monetary penalty against the registrant. The registrant was required to pay \$471.25 within 30 days of executing the consent order with the remaining \$1,413.75 held in abeyance for 24 months. The registrant has made the required payment.

Prior Actions: None.

Facility Type	Total # of Registered Facilities
Dental	1,746

15. Giles Family Dentistry – Camden, SC

Inspections and Investigations: The Department conducted several routine inspections, including August 2004, February 2009, June 2014, and most recently in October 2018, and found that the registrant repeatedly violated the same regulatory requirement.

Violations: The Department found that the registrant violated the X-Rays Regulation by failing to show records of equipment performance testing during the most recent inspection and had been cited for the same violation on three previous inspections. Specifically, the registrant failed to show their dental units had been tested every two years. The registrant submitted a record of equipment performance testing by a Department-approved vendor and subsequent to the most recent inspection.

Enforcement Action: The parties conducted an enforcement conference and the parties agreed to resolve the matter by consent order. In May 2019, the parties executed a consent order imposing a \$1,840 civil monetary penalty against the registrant. The registrant was required to pay \$460 within 30 days of executing the consent order with the remaining \$1,380 held in abeyance for 36 months. The registrant has made the required payment.

Prior Actions: None.

SUMMARY SHEET
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
August 8, 2019

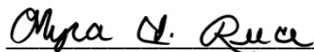
_____ ACTION/DECISION

 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 April 1, 2019 through June 30, 2019.
3. **FACTS:** For the reporting period of April 1, 2019 through June 30, 2019, the Office of Environmental Affairs issued two hundred sixteen (216) Consent Orders with total assessed civil penalties in the amount of three hundred forty-seven thousand, six hundred one dollars \$347,601.00 and two Consent Agreements. Also, sixteen (16) Administrative Orders were reported during this period with total assessed civil penalties in the amount of one hundred seven thousand, five hundred fifty dollars \$107,550.00.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Agreements	Consent Orders	Assessed Penalties
Land and Waste Management					
UST Program	6	\$95,050.00	0	3	\$5,705.00
Aboveground Tanks	0	0	0	0	0
Solid Waste	1	\$6,000.00	0	5	\$16,656.00
Hazardous Waste	0	0	0	7	\$59,300.00
Infectious Waste	0	0	0	0	0
Mining	1	\$1,000.00	0	2	\$1,800.00
SUBTOTAL	8	\$102,050.00	0	17	\$83,461.00
Water					
Recreational Water	0	0	0	1	\$680.00
Drinking Water	0	0	0	5	\$7,000.00
Water Pollution	0	0	0	19	\$61,590.00
Dam Safety	0	0	2	0	0
SUBTOTAL	0	0	2	25	\$69,270.00
Air Quality					
SUBTOTAL	0	0	0	4	\$29,000.00
Environmental Health Services					
Food Safety	1	\$2,500.00	0	163	\$164,370.00
Onsite Wastewater	7	\$3,000.00	0	7	\$1,500.00
SUBTOTAL	8	\$5,500.00	0	170	\$165,870.00
OCRM					
SUBTOTAL	0	0	0	0	0
TOTAL	16	\$107,550.00	2	216	\$347,601.00

Submitted by:



Myra C. Reece
Director of Environmental Affairs

**ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
August 8, 2019**

BUREAU OF LAND AND WASTE MANAGEMENT

Underground Storage Tank Enforcement

- 1) Order Type and Number: Administrative Order 18-0258-UST
 Order Date: January 7, 2019
 Individual/Entity: **Fort Roofing & Sheet Metal**
 Facility: Fort Roofing & Sheet Metal
 Location: 14 West Oakland Avenue
 Sumter, SC 29150

 Mailing Address: Same
 County: Sumter
 Previous Orders: 17-0334-UST (\$120.00)
 Permit/ID Number: 14405
 Violations Cited: The State Underground Petroleum Environmental
 Response Bank Act of 1988 (SUPERB Act), S.C. Code Ann. § 44-2-60(A) (2002 and
 Supp. 2016).

Summary: Fort Roofing and Sheet Metal (Individual/Entity) owns and operates underground storage tanks in Sumter, South Carolina. On August 1, 2018, the Department issued a Notice of Alleged Violation due to unpaid annual tank registration fees for fiscal year 2019. The Individual/Entity has violated the SUPERB Act as follows: failed to pay annual underground storage tank registration fees.

Action: The Individual/Entity is required to: pay annual tank registration fees in the amount of six hundred five dollars (\$605.00) and pay a civil penalty in the amount of six hundred dollars **(\$600.00)**.

- 2) Order Type and Number: Administrative Order 19-0026-UST
 Order Date: April 4, 2019
 Individual/Entity: **David Kaveh**
 Facility: Former Cornerstop 110
 Location: 267 North Anderson Road
 Rock Hill, SC 29730

 Mailing Address: P.O. Box 3278
 Rock Hill, SC 29732

 County: York
 Previous Orders: None
 Permit/ID Number: 09275
 Violations Cited: The State Underground Petroleum Environmental
 Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10, et. seq. (2002
 and Supp. 2016); and South Carolina Underground Storage Tank Control Regulations,
 7 S.C. Code Ann. Regs. 61-92.280.65 (2017).

Summary: David Kaveh (Individual/Entity), owns underground storage tanks located in Rock Hill, South Carolina. On January 24, 2017, the Department issued a Notice of Alleged Violation because a Tier II Assessment Report had not been submitted to the Department. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation, as follows: failed to determine the full extent of a release in accordance with a schedule established by the Department.

Action: The Individual/Entity is required to: submit a Tier II Assessment Report; and, pay a civil penalty in the amount of twenty-eight thousand dollars **(\$28,000.00)**.

- 3) Order Type and Number: Administrative Order 18-0261-UST
 Order Date: April 11, 2019
 Individual/Entity: **Judy K. Edge**
 Facility: Adorno Family Market
 Location: 9821 South Highway 905
 Longs, SC 29568
 Mailing Address: 1880 Bullock Trail
 Longs, SC 29568
 County: Horry
 Previous Orders: None
 Permit/ID Number: 11431
 Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 et seq. (2002 and Supp. 2016) (SUPERB Act); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs 61-92, 280.70(c), 280.93(a) and 110(c) (2017)

Summary: Judy K. Edge (Individual/Entity) owns and operates underground storage tanks (USTs) in Longs, South Carolina. On August 1, 2018, the Department issued a Notice of Alleged Violation due to unpaid annual tank registration fees for fiscal year 2019. On September 14, 2018, the Department noted the following: proof of financial responsibility and evidence of financial assurance was unavailable; annual tank registration fees for fiscal years 2010, 2011, 2012, 2013, 2014, 2016, 2017 and 2018 had not been paid; and the USTs at the Facility had been temporarily closed for greater than twelve (12) months and no longer met the current corrosion protection requirements. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation as follows: failed to demonstrate financial responsibility for an UST system and failed to provide evidence of financial assurance to the Department upon request; failed to pay annual underground storage tank registration fees; and failed to permanently close a UST system that has been temporarily closed for greater than twelve (12) months.

Action: The Individual/Entity is required to: submit annual tank registration fees for fiscal years 2010, 2011, 2012, 2013, 2014, 2016, 2017, 2018 and 2019 in the amount of ten thousand, one hundred sixty-four dollars (\$10,164.00); submit a completed Certificate of Financial Responsibility form and provide evidence of financial assurance; submit a completed Tank and Sludge Disposal form for permanent tank closure; within sixty (60) days after the tanks have been permanently closed, submit a UST Closure and Assessment Report; and pay a civil penalty in the amount of thirty-five thousand, three hundred fifty dollars **(\$35,350.00)**.

- 4) Order Type and Number: Administrative Order 18-0159-UST
Order Date: April 19, 2019
Individual/Entity: **Darryl Brock**
Facility: Poor Paul's Fireworks
Location: 275 Bud Arthur Bridge Road
Cowpens, SC 29330
Mailing Address: P.O. Box 1442
Cowpens, SC 29330
County: Spartanburg
Previous Orders: None
Permit/ID Number: 14880
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-60(A) (2002 and Supp. 2016) and the South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.70(c), 280.93(a), and 280.110(c) (2017).

Summary: Darryl Brock (Individual/Entity), located in Cowpens, South Carolina, owns underground storage tanks (USTs). The Department issued a Notice of Alleged Violation because there was no financial assurance documentation on file with the Department; annual tank registration fees for fiscal years 2017 and 2019 had not been paid; and the diesel UST needed to be emptied to less than one inch of residue to remain in extended-out-of-use status. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to maintain corrosion protection and appropriate release detection on temporarily closed USTs; failed to demonstrate financial responsibility for an UST system; failed to submit evidence of financial assurance to the Department upon request; and failed to pay annual underground storage tank registration fees.

Action: The Individual/Entity is required to: pay annual tank registration fees and associated late fees for fiscal years 2017 and 2019 in the amount of one thousand, four hundred twenty dollars (\$1,420.00); submit a completed Certificate of Financial Responsibility and provide evidence of financial assurance; submit proof that the diesel UST has been emptied to less than one inch of residue; and, pay a civil penalty in the amount of eight thousand, fifty dollars (**\$8,050.00**).

- 5) Order Type and Number: Administrative Order 18-0348-UST
Order Date: May 29, 2019
Individual/Entity: **Anwar Jebril**
Facility: Former Maxi Mart Inc.
Location: 2507 Chesnee Highway
Spartanburg, SC 29303-0207
Mailing Address: 17 Carolina Oaks Drive
Chesnee, SC 29323
County: Spartanburg
Previous Orders: None
Permit/ID Number: 08603
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10, et. seq. (2002 and Supp. 2016); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.65 (2017).

Summary: Anwar Jebril (Individual/Entity), owned underground storage tanks located in Spartanburg, South Carolina. On May 4, 2018, the Department issued a Notice of Alleged Violation because a Quality Assurance Program Plan (QAPP) for a Tier II Assessment had not been submitted to the Department and there was no financial assurance on file with the Department. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation, as follows: failed to determine the full extent of a release in accordance with a schedule established by the Department, failed to demonstrate financial responsibility, and failed to provide financial assurance.

Action: The Individual/Entity is required to: submit a QAPP for a Tier II Assessment and within ninety (90) days of the Department's approval of the QAPP, submit a Tier II Assessment Report; submit a completed Certificate of Financial Responsibility form and provide evidence of financial assurance; and, pay a civil penalty in the amount of twenty-one thousand, eight hundred fifty dollars **(\$21,850.00)**.

6) Order Type and Number: Administrative Order 19-0043-UST
Order Date: May 29, 2019
Individual/Entity: **Estate of Donald F. Small, Sr.**
Facility: S&S Village Mart
Location: 1516 Springdale Road
Lancaster, SC 29720
Mailing Address: 2743 Flat Creek Road
Lancaster, SC 29720
County: Lancaster
Previous Orders: None
Permit/ID Number: 05566
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 et seq. (2002 and Supp. 2016) (SUPERB Act); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs 61-92, 280.241(a) (2012 & Supp. 2018) (Regulation)

Summary: The Estate of Donald F. Small, Sr. (Individual/Entity) owns and operates underground storage tanks (USTs) in Lancaster, South Carolina. On October 4, 2018, the Department sent a letter informing the Estate of Donald F. Small, Sr. that annual tank registration fees for fiscal year 2019 were past due. On December 21, 2018, the Department sent a letter requesting proof of a trained Class A/B operator. The Individual/Entity has violated the SUPERB Act and South Carolina Underground Storage Tank Control Regulation as follows: failed to designate a Class A/B operator for the Facility and failed to pay annual underground storage tank registration fees.

Action: The Individual/Entity is required to: submit annual tank registration fees for fiscal year 2019 in the amount of six hundred five dollars (\$605.00); submit proof that a Class A/B operator has been trained for the Facility; and pay a civil penalty in the amount of one thousand, two hundred dollars **(\$1,200.00)**.

7) Order Type and Number: Consent Order 19-0052-UST
Order Date: May 13, 2019
Individual/Entity: **Chiragbhai Patel**
Facility: Quick Mart 3
Location: 5394 Highway 176
Pomaria, SC 29126

Mailing Address: Same
County: Newberry
Previous Orders: None
Permit/ID Number: 06529
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988, S.C. Code Ann. § 44-2-10 *et seq.* (2002 and Supp. 2016) (SUPERB Act); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Section 280.34(c), 280.40 (a), 280.41(b)(1)(i)(B), and 280.44(a) (2017) (Regulation)

Summary: Chiragbhai Patel (Individual/Entity) owns and operates underground storage tanks in Pomaria, South Carolina. On January 15, 2019, the Department issued a Notice of Alleged Violation because there were no release detection records available for review during the inspection, no line tightness test results available for review during the inspection, and no line leak detector function check test results available for review during the inspection: The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation as follows: failed to provide records to the Department upon request; failed to provide an adequate release detection method; failed to conduct annual line tightness test on pressurized line or have monthly monitoring; failed to have line leak detector function check conducted annually.

Action: The Individual/Entity is required to: repair the diesel STP and submit line tightness and line leak detector function check test results for the 6,000-gallon diesel UST or submit proof that the 6,000-gallon diesel UST contains less than one (1) inch of residue; and pay a civil penalty in the amount of one thousand, seven hundred five dollars **(\$1,705.00)**.

8) Order Type and Number: Consent Order 19-0089-UST
Order Date: May 13, 2019
Individual/Entity: **Turtle Market, LLC**
Facility: Turtle Market 2
Location: 3901 Highway 17 South
North Myrtle Beach, SC 29582
Mailing Address: 6151 Highway 707
Myrtle Beach, SC 29588
County: Horry
Previous Orders: None
Permit/ID Number: 19810
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq.* (2002 and Supp. 2016); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.20(c)(1)(ii) (2017).

Summary: Turtle Market, LLC (Individual/Entity), owns and operates underground storage tanks located in N. Myrtle Beach, South Carolina. On April 9, 2019, the Department conducted a routine inspection and issued a Notice of Alleged Violation because there was a stick in the drop tube shutoff valve on the diesel UST. The stick was removed while the Department's Inspector was on site. The Individual/Entity has violated the SUPERB Act and the South Carolina Underground Storage Tank Control Regulation, as follows: failed to maintain overfill prevention equipment.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

- 9) Order Type and Number: Consent Order 19-0032-UST
Order Date: May 29, 2019
Individual/Entity: **Sadachar, LLC**
Facility: Pacolet Store
Location: 7013 S. Pine St.
Pacolet, SC 29372
Mailing Address: Same
County: Spartanburg
Previous Orders: 19-0032-UST (\$1,000.00)
Permit/ID Number: 19727
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. § 44-2-10 *et seq.* (2002 and Supp. 2016); and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann. Regs. 61-92.280.20(c)(1)(ii) (2017).

Summary: Sadachar, LLC (Individual/Entity), located in Pacolet, South Carolina, owns and operates underground storage tanks located in Spartanburg, South Carolina. On January 25, 2019, the Department issued a Notice of Alleged Violation because the three (3) USTs did not have overfill prevention equipment. The Individual/Entity has violated the SUPERB Act and the 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 is required to: pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)** in accordance with the terms of a promissory note.

Solid Waste Enforcement

- 10) Order Type and Number: Administrative Order 19-05-SW
Order Date: June 4, 2019
Individual/Entity: **David Nelson Terry**
Facility: Private Residence
Location: 5467 Highway 151
Jefferson, SC 29518
Mailing Address: Same
County: Chesterfield
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: Solid Waste Policy and Management Act of 1991, S.C. Code Ann. 44-96-10 *et seq.* (2002 & Supp. 2018); Solid Waste Management: Waste Tires, R.61-107.3, Part III.A.1.a. and B.1. (2015)

Summary: David Nelson Terry (Individual/Entity), owns property located in Jefferson, South Carolina. On April 30, 2018, May 22, 2018, June 15, 2018, June 25, 2018, July 2, 2018, and November 30, 2018, the Department conducted inspections in response to a complaint. The Individual/Entity has stored approximately one thousand (1,000) waste tires at the property. The Individual/Entity has violated the Solid Waste Policy and Management Act and the Solid Waste Management: Waste Tires Regulation as follows: stored greater than one hundred twenty (120) waste tires without first obtaining a permit from the Department to operate a waste tire collection facility and failed to segregate used tires from waste tires, stored them by size in a rack or stack two rows wide.

Action: The Individual/Entity is required to: dispose of the waste tires at a facility permitted by the Department to accept waste tires, provide disposal receipts to the Department, and pay a civil penalty in the amount of six thousand dollars **(\$6,000.00)**.

- 11) Order Type and Number: Consent Order 19-02-SW
Order Date: April 1, 2019
Individual/Entity: **Robert Mercer**
Facility: Unpermitted Structural Fill
Location: Church Lane, TMS # 6-29-11-005.02
Roebuck, SC 29376
Mailing Address: 7235 Highway 357
Campobello, SC 29322
County: Spartanburg
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-290(A) (Rev. 2002) (Act) and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part II.B.1 (Rev. 2008 and Supp. 2016) (Regulation)

Summary: Robert Mercer (Individual/Entity), located in Roebuck, South Carolina, is responsible for operating a structural fill without a permit from the Department. The Department conducted inspections on January 24, 2018, February 15, 2018, March 2, 2018, April 18, 2018, May 22, 2018, and October 5, 2018, and determined that the Site had been filled without a structural fill permit from the Department. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation as follows: operated a structural fill without a permit issued by the Department.

Action: The Individual/Entity is required to: apply a two-foot thick final earth cover and seed the finished surface area with native grasses or other suitable cover; and record with the Register of Deeds a notation in the record of ownership of the property that will, in perpetuity, notify any potential purchaser of the property that the land, or a portion thereof, has been filled with solid waste debris; and pay a **suspended penalty** in the amount of three thousand, five hundred dollars **(\$3,500.00)** should any requirement of the Order not be met.

- 12) Order Type and Number: Consent Order 19-09-SW
Order Date: May 13, 2019
Individual/Entity: **Barr Construction, Inc.**
Facility: Barr Construction Wood Chipping Facility
Location: 2371 Rifle Range Road
Mt. Pleasant, SC 29465
Mailing Address: P.O. Box 2486
Mt. Pleasant, SC 29465
County: Charleston
Previous Orders: None
Permit/ID Number: 102641-3001
Violations Cited: Solid Waste Policy and Management Act (2018 and Supp. 2018) and Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, Regulation 61-107.4, Part III.E.1.d. (Supp. 2016), and Permit 102641-3001, General Conditions 1. and 3.

Summary: Barr Construction, Inc. (Individual/Entity), located in Mt. Pleasant, South Carolina, is responsible for the proper operation and maintenance of a wood chipping facility. The Department conducted inspections on September 6, 2018, October 23, 2018, and February 21, 2109, and determined that the Facility was operating in excess of its permitted capacity as allowed by permit. The Individual/Entity has violated the Solid Waste Policy and Management Act, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, Regulation, and their Permit as follows: exceeded its permitted limit of unprocessed materials.

Action: The Individual/Entity is required to: reduce the amount of unprocessed materials on-site to less than the permitted 8,333 cubic yards; and, pay a civil penalty in the amount of three thousand, six hundred dollars **(\$3,600.00)**.

- 13) Order Type and Number: Consent Order 19-13-SW
Order Date: May 13, 2019
Individual/Entity: **Made To Last Straw, LLC**
Facility: Made To Last Straw, LLC
Location: 368 Winningham Road
St. George, SC 29477
Mailing Address: Same
County: Dorchester
Previous Orders: None
Permit/ID Number: TIRE-00039
Violations Cited: Solid Waste Policy and Management Act of 1991, S.C. Code Ann. 44-96-10 et seq. (2002 & Supp. 2018); Solid Waste Management: Waste Tires Regulation, R.61-107.3, Part III.D.2.; Part IV, A.2., A.3, A.5., B.1., B.2, C.2.B. (2016).; Permit #TIRE-00039, General Conditions: A.(1), (2), and (3), and Operational Plan: 3.b.

Summary: Made To Last Straw, LLC (Individual/Entity), owns and operates a tire processing facility, located in St. George, South Carolina. On December 12, 2018, January 14, 2019, January 29, 2019, February 14, 2019, February 27, 2019, and March 26, 2019, the Department conducted routine inspections at the Facility. The Individual/Entity violated the Solid Waste Policy and Management Act, the Solid Waste Management: Waste Tires Regulation and their Permit as follows: failed to maintain a fifty (50) foot radius around each waste tire pile; stored waste tires in unpermitted areas; stored off-road tires; failed to maintain waste tire piles within permitted dimensions; and exceeded the permitted storage limit of waste tires.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand, five hundred dollars **(\$2,500.00)**.

- 14) Order Type and Number: Consent Order 19-14-SW
Order Date: May 29, 2019
Individual/Entity: **Envirogreen Holdings Group, Inc.**
Facility: Envirogreen St. Stephens, LLC
Location: 315 Ravenell Drive,
St. Stephens, SC 29479
Mailing Address: Same
County: Berkeley
Previous Orders: None

Permit/ID Number: TIRE-00041
Violations Cited: Solid Waste Policy and Management Act of 1991, S.C. Code Ann. 44-96-10 et seq. (2002 & Supp. 2018); Solid Waste Management: Waste Tires Regulation, R.61-107.3, Part III.D.2.; Part IV, A.2., A.3, A.5., B.1., B.2, C.2.B. (2016).; Permit #TIRE-00041, General Conditions: A.(1), (2), and (5a&b), Operational Plan: 1.5.2, 2.2, and the Contingency Plan.

Summary: Envirogreen Holdings Group, Inc. (Individual/Entity), owns and operates a tire processing facility, located in St. Stephens, South Carolina. On October 24, 2018, October 31, 2018, December 11, 2018, December 28, 2018, January 11, 2019, January 29, 2019, February 14, 2019, February 27, 2019, March 14, 2019, and March 26, 2019, the Department conducted routine inspections at the Facility. The Individual/Entity violated the Solid Waste Policy and Management Act, the Solid Waste Management: Waste Tires Regulation and their Permit as follows: failed to keep waste tires and tire derived fuel (TDF) off the ground and in permitted covered areas; exceeded the permitted storage limit of TDF; and, failed to install scales at the Facility.

Action: The Individual/Entity is required to: cease accepting waste tires until the total tonnage limit is within permitted limits; remove all waste tires and TDF from the ground; bring the total onsite tonnage limit to within permitted limits; place waste tires and TDF in the permitted areas or in trailers and cover with tarp; ensure that a fire lane consisting of a fifty (50) foot unobstructed perimeter is present around all waste tires; install scales as required by the Permit or submit a permit application package to modify the current Permit to include procedures to ensure the permitted storage capacity is not exceeded; and, pay a civil penalty in the amount of eight thousand, one hundred fifty-six dollars **(\$8,156.00)** in accordance with the terms of a promissory note.

15) Order Type and Number: Consent Order 19-11-SW
Order Date: June 17, 2019
Individual/Entity: **Mary E. Pizzo, Individually, Construction, LLC, and Windsong of Beaufort, LLC**
Facility: Unpermitted Landfill
Location: 184 Eddings Point Rd., 188 Eddings Point Rd. [Site 1], and 21 Windsong Rd. [Site 2]
Beaufort and Port Royal, SC, Respectively
Mailing Address: 45 Shorts Landing Road
Beaufort, SC 29465
County: Beaufort
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: Solid Waste Policy and Management Act (2018 and Supp. 2018) and Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, Regulation 61-107.4, Part III.A.1. (Supp. 2016), and Solid Waste Management Landfills and Structural Fill Regulation 61-107.19, Part IV.A.3. (Supp. 2016).

Summary: Mary E. Pizzo, Individually, Joco Construction, LLC, and Windsong of Beaufort, LLC (Individual/Entity), are located in Beaufort, South Carolina. The Department conducted inspections on January 23, 2018, August 11, 2018, January 18, 2019, January 23, 2019, February 25, 2019, March 5, 2019, and March 12, 2019, and determined that the Individual/Entity allowed land-clearing debris and construction and demolition debris to be brought to Sites thereby operating a Class 2 landfill and a wood grinding facility without

permits. The Individual/Entity has violated the Solid Waste Policy and Management Act and Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, Regulation, as follows: operated a Class 2 landfill without a permit and operated a wood grinding operation that did not meet Part II exemptions without a permit.

Action: The Individual/Entity is required to: cease accepting/bringing/stockpiling any land-clearing debris/yard trimmings onto Site 1 and Site 2; grind all land-clearing debris/yard trimmings currently on Site 2, remove all wood chips, and submit disposal/sales receipts to the Department; and, pay a civil penalty in the amount of two thousand, four hundred dollars **(\$2,400.00)**.

Hazardous Waste Enforcement

16) Order Type and Number: Consent Order 19-02-IW
Order Date: April 23, 2019
Individual/Entity: **Kornegay & Moseley Funeral Home & Cremation Service, LLC.**
Facility: Kornegay & Moseley Funeral Home & Cremation Service, LLC.
Location: 4645 Hard Scrabble Road
Columbia, SC 29259
Mailing Address: Same
County: Richland
Previous Orders: N/A
Permit/ID Number: IWG000699
Violations Cited: The South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2010) (SCIWMR), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-10 et seq. (2002).

Summary: Kornegay & Moseley Funeral Home & Cremation Service, LLC. (Individual/Entity) is a funeral home located in Columbia, South Carolina. The Department conducted inspections on June 1, 2018, and July 30, 2018. The Individual/Entity violated the South Carolina Infectious Waste Management Act and the Infectious Waste Management Regulations as follows: failed to maintain all records and manifest copies for a minimum of two (2) years in a location within South Carolina easily accessible to the Department upon request; failed to maintain a record of the treatment of waste that had been previously treated, to include the date and type of treatment, amount of waste treated, and the individual operation the treatment; failed to maintain records for onsite treatment by the generator for a minimum of two (2) years in a location easily accessible to the Department; failed to have a designated infectious control committee and a written protocol to manage the infectious waste stream from generation until offered for transport; failed to assure proper packaging and labeling of waste to be transported offsite as required in Section I of this Regulation; failed to treat infectious waste onsite or transport offsite for treatment at a permitted treatment facility; failed to obtain and record the accurate weight of waste within fifty (50) days of shipment; failed to segregate infectious waste from solid waste as close to the point of generations as practical to avoid commingling of the waste; failed to ensure that all other types of infectious waste are placed, stored, and maintained before and during transport in a rigid or semirigid, leak resistant container which is impervious to moisture; failed to ensure that containers of infectious waste are sealed and closed tightly and securely when full by

weight or volume, or when putrescent, to prevent any discharge of the contents at any time until the container enters the treatment system; failed to assure that once sealed, containers of infectious waste are properly labeled; failed to label containers of infectious waste offered for transport offsite with the date the container was placed in storage or sent offsite, if not sealed; and failed to label storage areas with the universal biohazard symbol sign.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of two thousand dollars **(\$2,000.00)**.

- 17) Order Type and Number: Consent Order 19-10-HW
 Order Date: May 8, 2019
 Individual/Entity: **Aiken Regional Medical Center**
 Facility: Aiken Regional Medical Center
 Location: 302 University Parkway
 Aiken, SC 29801
 Mailing Address: Same
 County: Aiken
 Previous Orders: N/A
 Permit/ID Number: SCR 000 777 623
 Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Aiken Regional Medical Center (Individual/Entity) is a hospital located at 302 University Parkway, Aiken, South Carolina. The Department conducted an inspection on February 12, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: satellite accumulation containers were open; satellite accumulation containers were not labeled with the words: "Hazardous Waste" or other words that identified the contents of the container; failed to post the name and telephone number of the emergency coordinator next to the telephone in the less than one hundred eighty (180) day Storage Area; failed to label universal waste batteries with an accumulation start date and one of the following phrases: "Universal Waste- Battery(ies)," "Waste Battery(ies)," or "Used Battery(ies)"; failed to provide copies of manifests after December 2016; and failed to notify the Department that it was generating the following P-listed, acute hazardous waste streams: Physostigmine and Trisenox.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of eight thousand dollars **(\$8,000.00)**.

- 18) Order Type and Number: Consent Order 19-11-HW
 Order Date: May 23, 2019
 Individual/Entity: **International Vitamin Corporation**
 Facility: International Vitamin Corporation
 Location: 4615 Dairy Drive
 Greenville, SC 29607
 Mailing Address: Same
 County: Greenville
 Previous Orders: None
 Permit/ID Number: SCD 982 156 531

Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: International Vitamin Corporation (Individual/Entity) manufactures, packages, and supplies vitamins and related health products at its facility located in Greenville, South Carolina. The Department conducted an inspection on March 5, 2019. The Individual/Entity violated the Hazardous Waste Management Regulations as follows: failed to place hazardous waste in containers that complied with the applicable requirements of Subpart I of the Regulation; failed to ensure each container was labeled or marked clearly with accumulation start dates, EPA Hazardous Waste Number(s) and the words: "Hazardous Waste - federal laws prohibit improper disposal"; failed to mark containers with the words: "Hazardous Waste" or with other words that identified the contents of the container; failed to keep containers holding hazardous waste closed, except when it was necessary to add or remove waste; failed to ensure that each container holding hazardous waste was in good condition; failed to ensure containers were not stacked more than two containers high; failed to maintain aisle space to allow unobstructed movement of personnel and emergency equipment; failed to record hazardous waste inspections in an inspection log or summary that included the time of the inspection and the remedial action date; failed to clean up a hazardous waste discharge that occurred during processing; failed to maintain and operate the facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste; failed to file a revised or new Notification Form with the Department whenever the facility's contact information became inaccurate and when a new hazardous waste was generated; and failed to list the contact information for the emergency coordinator(s) in the contingency plan.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of eighteen thousand dollars **(\$18,000.00)**.

19) Order Type and Number: Consent Order 19-12-HW
Order Date: May 29, 2019
Individual/Entity: **Plastic Omnium Auto Exteriors, LLC**
Facility: Plastic Omnium Auto Exteriors, LLC
Location: 310 Genoble Road
Greer, SC 29651
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit/ID Number: SCR 007 845 512
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Plastic Omnium Auto Exteriors, LLC (Individual/Entity) manufactures finished plastic exterior parts for the automotive industry at its facility located in Greer, South Carolina. The Department conducted an inspection on January 30, 2019. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to keep records onsite of test results, waste analyses, or other determinations for at least three years; failed to mark containers with the words: "Hazardous Waste" or with other words that identified the contents of the container;

failed to keep containers holding hazardous waste closed, except when it was necessary to add or remove waste; failed to maintain aisle space to allow unobstructed movement of personnel and emergency equipment; failed to ensure the containment structure was free of cracks or gaps and was sufficiently impervious; failed to file a revised or new Notification Form with the Department whenever the facility's contact information became inaccurate; and failed to list the contact information for the emergency coordinator(s) in the contingency plan.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of seven thousand, five hundred dollars **(\$7,500.00)**.

20) Order Type and Number: Consent Order 19-13-HW
 Order Date: June 4, 2019
 Individual/Entity: **The Crown Group Company**
 Facility: The Crown Group Company
 Location: 101 Milledge Road
 Greenville, SC 29605
 Mailing Address: Same
 County: Greenville
 Previous Orders: 15-15-HW (\$8,579.00)
 Permit/ID Number: SCR 000 776 955
 Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: The Crown Group Company (Individual/Entity) is a generator of hazardous waste and is located in Greenville County, South Carolina. The Department conducted inspections on March 6, 2019, and March 7, 2019. The Individual/Entity has violated the Hazardous Waste Management Regulations as follows: failed to make accurate waste determinations; universal waste boxes open and did not have an accumulation start date; failed to have a fire extinguisher and a spill kit in the less than ninety (90) day Storage Area; universal waste boxes open and unlabeled being stored against the chain link fence; tote labeled "Hazardous Waste" was marked with an accumulation date of December 12, 2018, and had not been moved to the less than ninety (90) day Storage Area within three (3) days of being dated; unlabeled black pan containing sludge (Hazardous Waste Code F019) near the sludge storage tank; missing some weekly hazardous inspection records and the inspector's name was missing for some of the inspections; training records indicated the last annual hazardous waste training was completed in November 2016 and three (3) employees had not received their annual review of the initial training since 2016; the contingency plan did not include the emergency contacts' address, had not been updated since April 11, 2016; failed to provide evidence the contingency plan had been sent to local and state emergency response teams; and failed report to the Department that hazardous waste indicated on a manifest was shipped offsite on September 12, 2018.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of ten thousand dollars **(\$10,000.00)**.

21) Order Type and Number: Consent Order 19-15-HW
Order Date: June 13, 2019
Individual/Entity: **Transcontinental Spartanburg**
Facility: Transcontinental Spartanburg
Location: 345 Cedar Springs Avenue
Spartanburg, SC 29302
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit/ID Number: SCD 003 340 692
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Transcontinental Spartanburg (Individual/Entity) is a generator of hazardous waste and is located in Spartanburg County, South Carolina. The Department conducted an inspection on January 18, 2019. The Individual/Entity violated the Hazardous Waste Management Regulations as follows: transferred hazardous waste from a 5-gallon satellite accumulation step can (labeled as "Oily Waste") that is under the control of the operator to a 55-gallon satellite accumulation drum that is not under the control of the operator where the waste was initially generated; failed to label containers with the words: "Hazardous Waste" or other words that identify the contents of the container; drums located in the less than 90-day storage area were not labeled with accumulation start dates; there was one (1) open bucket of hazardous solid materials; five universal waste lamps were unboxed; sodium hydroxide on the floor that came from a leaking pipe was observed in the Wastewater Pretreatment Area; failed to document the accumulation start date for the universal waste batteries observed sitting on a palette; failed to provide any analytical data to demonstrate that the waste collected in the Magnus Room pit does not contain any hazardous waste constituents; two (2) employees did not receive RCRA annual training for 2018; the facility's contingency plan did not list the home addresses for the designated emergency contacts; and failed to provide documentation to demonstrate the contingency plan had been sent to local emergency officials.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of ten thousand dollars **(\$10,000.00)**.

22) Order Type and Number: Consent Order 19-14-HW
Order Date: June 25, 2019
Individual/Entity: **Booth Electrosystems, Inc.**
Facility: Booth Electrosystems, Inc.
Location: 30 Bypass 25 North
Greenville, SC 29611
Mailing Address: P.O. Box 15030
Greenville, SC 29610
County: Greenville
Previous Orders: 15-21-HW (\$3,299.00)
Permit/ID Number: SCD 058 184 730
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Booth Electrosystems, Inc. (Individual/Entity) is a generator of hazardous waste and is located in Greenville County, South Carolina. The Department conducted an inspection on March 6, 2019. The Individual/Entity has violated Hazardous Waste Management Regulations as follows: failed to label a 55-gallon plastic satellite accumulation drum containing hazardous sludge (Hazardous Waste Code F006); failed to label a drum in the less than one hundred eighty (180) day storage area was not marked with the words: "Hazardous Waste- Federal laws prohibit improper disposal" or an equivalent statement and nor was it labeled with an EPA Hazardous Waste Number; a drum in the less than one hundred eighty (180) day storage area had been stored onsite for greater than one hundred eighty (180) days; failed to close drum rings on one (1) 55-gallon drum of hazardous floor sweepings and one (1) 55-gallon drum of hazardous cyanide waste; failed to notify the Department that it was generating hazardous waste streams with the following Hazardous Waste Codes: F002 and F005.

Action: The individual/Entity is required to: pay a civil penalty in the amount of three thousand, eight hundred dollars **(\$3,800.00)**.

Mining Enforcement

23) Order Type and Number: Administrative Order 19-02-MSWM
Order Date: April 12, 2019
Individual/Entity: **Old Pond, LLC**
Facility: Old Pond Sand Mine
Location: Old Pond Road
Charleston, SC
Mailing Address: 73 Morris Street
Charleston, SC 29403
County: Charleston
Previous Orders: None
Permit/ID Number: GP1-001748
Violations Cited: South Carolina Mining Act, S.C. Code Ann. § 48-20-10 et seq. (2008 & Supp. 2018), Mining Regulation, R.89.340(B), 280., 210., 80. ((2012), and Permits GP1-001748, IX.1.

Summary: Old Pond, LLC (Individual/Entity), located in Charleston, South Carolina, owns and operates Old Pond Sand Mine. The Department mailed invoices for Annual Reclamation Report and Annual Operating Fees on July 1, 2018, August 1, 2018, September 4, 2018, November 5, 2018, December 12, 2018, and January 4, 2019. The Individual/Entity has violated the South Carolina Mining Act and the Mining Regulation as follows: failed to submit Annual Reclamation Reports for fiscal year 2019; and failed to submit Annual Operating Fees and associated late fees for fiscal year 2019.

Action: The Individual/Entity is required to: submit Annual Reclamation Reports for FY2019; pay Annual Operating Fees and associated late fees for FY2019 in the amount of six hundred twenty-five dollars (\$625.00); and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

24) Order Type and Number: Consent Order 19-03-MSWM
Order Date: April 26, 2019
Individual/Entity: **Hubert B. Avant, Jr. d.b.a. B & D Services**
Facility: Paul Mine and Litosa Mine
Location: Alvan Rd and Humbert Road, respectively
Johns Island, SC
Mailing Address: 600 Ridgecut Road
Early Branch, SC 29916-3912
County: Charleston
Previous Orders: None
Permit/ID Number: GP1-002086 and GP1-002091, respectively
Violations Cited: South Carolina Mining Act, S.C. Code Ann. § 48-20-10 et seq. (2008 & Supp. 2018), Mining Regulation, R.89.340(B), 280., 210., 80. ((2012), and Permits GP1-002086 and GP1-002091, IX.1.

Summary: Hubert B. Avant, Jr. d.b.a. B & D Services (Individual/Entity), located in Johns Island, South Carolina, owns and operates Paul Mine and Listosa Mine. The Department mailed invoices for Annual Reclamation Report and Annual Operating Fees on July 1, 2018, August 1, 2018, September 4, 2018, November 5, 2018, December 12, 2018, and January 4, 2019. The Individual/Entity has violated the South Carolina Mining Act and the Mining Regulations as follows: failed to submit Annual Reclamation Reports for fiscal year 2019 and failed to submit Annual Operating Fees and associated late fees for fiscal year 2019.

Action: The Individual/Entity is required to: submit Annual Reclamation Reports for FY2019; pay Annual Operating Fees and associated late fees for FY2019 in the amount of one thousand, two hundred fifty dollars (\$1,250.00); and pay a civil penalty in the amount of one thousand, two hundred dollars **(\$1,200.00)**.

25) Order Type and Number: Consent Order 19-04-MSWM
Order Date: May 6, 2019
Individual/Entity: **Cornerstone Development Co.**
Facility: I-77 Mine Site
Location: Intersection of I-77 and the railroad
Rock Hill, SC
Mailing Address: P.O. Box 1345
Fort Mill, SC 29716-1345
County: York
Previous Orders: None
Permit/ID Number: I-001292
Violations Cited: South Carolina Mining Act, S.C. Code Ann. § 48-20-10 et seq. (2008 & Supp. 2018), Mining Regulation, R.89.340(B), 280., 210., 80. ((2012), and Permits I-001292, IX.1.

Summary: Cornerstone Development Co. (Individual/Entity), located in Rock Hill, South Carolina, owns and operates I-77 Mine Site. The Department mailed invoices for Annual Reclamation Report and Annual Operating Fees on July 1, 2018, August 1, 2018, September 4, 2018, November 5, 2018, December 12, 2018, and January 4, 2019. The Individual/Entity has violated the South Carolina Mining Act and the Mining Regulation as follows: failed to submit Annual Reclamation Reports for fiscal year 2019 and failed to submit Annual Operating Fees and associated late fees for fiscal year 2019.

Action: The Individual/Entity is required to: submit Annual Reclamation Reports for FY2019; pay Annual Operating Fees and associated late fees for FY2019 in the amount of six hundred twenty-five dollars (\$625.00); and pay a civil penalty in the amount of six hundred dollars **(\$600.00)**.

BUREAU OF WATER

Recreational Waters Enforcement

26) Order Type and Number: Consent Order 19-043-RW
Order Date: June 26, 2019
Individual/Entity: **Daniel International Corporation**
Facility: Fluor Fitness
Location: 100 Fluor Daniel Drive
Greenville, SC 29607
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: 23-213-1
Violations Cited: S.C. Code Ann. Regs. 61-51(J)

Summary: Daniel International Corporation (Individual/Entity) owns and is responsible for the proper operation and maintenance of a spa. On March 27, 2019, and June 7, 2019, the spa was inspected, and a violation was issued for failure to properly operate and maintain. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: the bromine level was not within the acceptable range of water quality standards; the facility address was not posted at the emergency notification device; the spa temperature exceeded 104 degrees Fahrenheit; and the bromine feeder was leaking.

Action: The Individual/Entity is required to: pay a civil penalty in the amount of six hundred eighty dollars **(\$680.00)**.

Drinking Water Enforcement

27) Order Type and Number: Consent Order 19-008-DW
Order Date: April 2, 2019
Individual/Entity: **Saluda Commission of Public Works**
Facility: **Saluda Commission of Public Works**
Location: 203 Greenwood Highway
Saluda, SC 29138
Mailing Address: P.O. Box 686
Saluda, SC 29138
County: Saluda
Previous Orders: None
Permit/ID Number: 4110001
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: Saluda Commission of Public Works (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On February 12, 2019, 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 exceeded the maximum contaminant level (MCL) for total trihalomethanes.

Action: The Individual/Entity is required to: submit a corrective action plan to include proposed steps to address the MCL violation; and pay a **stipulated penalty** in the amount of four thousand dollars **(\$4,000.00)**, should any requirement of the Order not be met.

28) Order Type and Number: Consent Order 19-009-DW
Order Date: April 4, 2019
Individual/Entity: **McCormick County Water & Sewer Authority**
Facility: McCormick County Water & Sewer Authority
Location: 610 South Mine Street
McCormick, SC 29835
Mailing Address: Same
County: McCormick
Previous Orders: 14-235-DW (\$4,000.00 stipulated)
Permit/ID Number: 3520002
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: McCormick County Water & Sewer Authority (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On February 12, 2019, 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 exceeded the maximum contaminant level (MCL) for total trihalomethanes.

Action: The Individual/Entity is required to: submit a corrective action plan to include proposed steps to address the MCL violation; and pay a civil penalty in the amount of four thousand dollars **(\$4,000.00)**.

29) Order Type and Number: Consent Order 19-010-DW
Order Date: May 23, 2019
Individual/Entity: **Lancaster County Water & Sewer District**
Facility: Lancaster County Water & Sewer District
Location: 1400 Pageland Highway
Lancaster, SC 29720
Mailing Address: P.O. Box 1009
Lancaster, SC 29721
County: Lancaster
Previous Orders: None
Permit/ID Number: 2920001
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)(b) & 61-58.6.E(2)(c)

Summary: Lancaster County Water & Sewer District (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On February 28, 2019, 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; and the Individual/Entity failed to issued public notice as soon as practical, but no later than twenty-four hours after the system learned of the violation in a form and manner reasonably calculated to reach all persons served.

Action: The Individual/Entity is required to: submit a corrective action plan to include proposed steps to address the MCL violation; submit a standard operating procedure that will be followed to ensure all public notice requirements are complied with; submit a standard operating procedure that will be followed to ensure the use of proper sampling procedures; pay civil penalty in the amount of three thousand dollars **(\$3,000.00)**; and pay a stipulated penalty in the amount of four thousand dollars (\$4,000.00), should any requirement of the Order not be met.

30) Order Type and Number: Consent Order 19-011-DW
Order Date: June 11, 2019
Individual/Entity: **Huggins Hollow, LLC**
Facility: Huggins Mobile Home Park 1
Location: 150 Gibbet Road
Bluffton, SC 29910
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit/ID Number: 0760083
Violations Cited: S.C. Code Ann. Regs. 61-58.17.K(1)(b)

Summary: Huggins Hollow, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On May 1, 2019, 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: submit a corrective action plan to include proposed steps to address the MCL violation; and pay a **stipulated penalty** in the amount of four thousand dollars **(\$4,000.00)** should any requirement of the Order not be met.

31) Order Type and Number: Consent Order 19-012-DW
Order Date: June 11, 2019
Individual/Entity: **Rawl Farm Lands, LLC**
Facility: Gilbert Migrant Labor Camp
Location: 101 Mayberry Court
Gilbert, SC 29054
Mailing Address: 725 Calks Ferry Road
Lexington, SC 29072
County: Lexington
Previous Orders: None
Permit/ID Number: 3271003
Violations Cited: S.C. Code Ann. Regs. 61-58.5.B(2)(h)

Summary: Rawl Farm Lands, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS). On February 20, 2019, 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 exceeded the maximum contaminant level (MCL) for nitrate.

Action: The Individual/Entity is required to: submit a corrective action plan to include proposed steps to address the MCL violation; and pay a **stipulated penalty** in the amount of four thousand dollars **(\$4,000.00)** should any requirement of the Order not be met.

Water Pollution Enforcement

32) Order Type and Number: Consent Order 19-021-W
Order Date: April 11, 2019
Individual/Entity: **Dominion Energy Carolina Gas Transmission, LLC**
Facility: Natural gas pipeline right-of-way
Location: Spartanburg County, SC
Mailing Address: 925 White Oaks Blvd
Bridgeport, WV 26330
County: Spartanburg
Previous Orders: None
Permit/ID Number: N/A (401 Certification)
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 90 (A)
(2008 & Supp. 2018)

Summary: Dominion Energy Carolina Gas Transmission, LLC (Individual/Entity) is responsible for construction of a natural gas pipeline located in Spartanburg County, South Carolina. On May 3, 2018, Department staff provided notification of violations observed during an inspection. The Individual/Entity has violated the Pollution Control Act as follows: discharged sediment into the environment, including waters of the state, in a manner other than in compliance with a permit issued by the Department.

Action: The Individual/Entity is required to; submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of four thousand, two hundred dollars **(\$4,200.00)**.

33) Order Type and Number: Consent Order 19-022-W
Order Date: April 11, 2019
Individual/Entity: **Town of Lyman**
Facility: Lyman WWTF
Location: Groce Road, Lyman
Spartanburg County, SC
Mailing Address: 81 Groce Road
Lyman, SC 29365
County: Spartanburg
Previous Orders: 15-002-W (\$2,800.00)
Permit/ID Number: NPDES Permit SC0021300
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The Town of Lyman (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Spartanburg County, South Carolina. On April 18, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for chronic effluent toxicity (CTOX) as reported on discharge monitoring reports submitted for the December 2017 through February 2018 quarterly monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for CTOX.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; perform a Toxicity Identification Evaluation/Toxicity Reduction Evaluation in the event that it observes an additional CTOX violation within one (1) year following the completion of the CAP; submit quarterly progress reports; and, pay a civil penalty in the amount of three thousand, four hundred dollars **(\$3,400.00)**.

34) Order Type and Number: Consent Order 19-023-W
Order Date: April 26, 2019
Individual/Entity: **Charleston Water System**
Facility: Plum Island WWTF
Location: 539 Harbor View Circle
Charleston, SC 29412
Mailing Address: P.O. Box B
Charleston, SC 29402-0017
County: Charleston
Previous Orders: None
Permit/ID Number: NPDES Permit SC0021229
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Charleston Water System (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Charleston County, South Carolina. On January 31, 2019, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Enterococci (EC) as reported on discharge monitoring reports submitted for the November 2018 and December 2018 monthly monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for EC.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

35) Order Type and Number: Consent Order 19-024-W
Order Date: May 8, 2019
Individual/Entity: **Carolina Water Service, Inc. of NC**
Facility: Lamplighter Village South WWTF
Location: 12930 Danby Road
Fort Mill, SC 28134
Mailing Address: P.O. Box 240908

Charlotte, NC 28224-0908
County: York
Previous Orders: None
Permit/ID Number: NPDES Permit SC0030112
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Carolina Water Service, Inc. of NC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in York County, South Carolina. On January 7, 2019, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for chronic toxicity (CTOX) during October 2018. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its National Pollutant Discharge Elimination System permit for CTOX.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; perform a Toxicity Identification Evaluation/Toxicity Reduction Evaluation in the event that it observes an additional CTOX violation within one and a half (1.5) years following the completion of the CAP; submit quarterly progress reports; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

36) Order Type and Number: Consent Order 19-025-W
Order Date: May 21, 2019
Individual/Entity: **Mr. Monroe Danley**
Facility: Hillside Farms
Location: 126 Berry Tree Lane
Salley, SC 29137
Mailing Address: 793 Clinton Church Road
Salley, SC 29137
County: Aiken
Previous Orders: None
Permit/ID Number: Land Application Permit ND0088005
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 90(a)
(2008 & Supp. 2018), and South Carolina Standards for the Permitting of Agricultural Animal Facilities, S.C. Code Ann Regs. 61-43.200.100.B.21 (2011); South Carolina Standards for the Permitting of Agricultural Animal Facilities, S.C. Code Ann Regs. 61-43.200.130.B.7 (2011).

Summary: Mr. Monroe Danley (Individual/Entity) owns and is responsible for the proper operation and maintenance of a poultry facility (Facility) located in Aiken County, South Carolina. On December 29, 2018, the Department issued a Notice of Violation as a result of uncovered manure and an insufficient burial pit cover as observed during Department inspections on April 26, 2018, and December 4, 2018. The Individual/Entity has violated the Pollution Control Act and the South Carolina Standards for the Permitting of Agricultural Animal Facilities Regulation as follows: improperly stored uncovered manure and insufficiently buried dead animals at the Facility.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of five thousand, six hundred dollars **(\$5,600.00)**.

- 37) Order Type and Number: Consent Order 19-027-W
Order Date: May 21, 2019
Individual/Entity: **Titan Peach Packaging Farm**
Facility: Titan Peach Packaging Farm
Location: 5 RW Dubose Road
Ridge Spring, SC 29129
Mailing Address: Same
County: Edgefield
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 90 (A)
(1) (2008 & Supp. 2018).

Summary: Titan Peach Packaging Farm (Individual/Entity) owns and is responsible for a peach packaging facility located in Edgefield County, South Carolina. On September 5, 2018, the Department conducted an inspection of the peach packaging facility. The Individual/Entity has violated the Pollution Control Act as follows: discharged agricultural waste into the environment, including waters of the state, in a manner other than in compliance with a permit issued by the Department.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of four thousand, two hundred dollars **(\$4,200.00)**.

- 38) Order Type and Number: Consent Order 19-028-W
Order Date: May 21, 2019
Individual/Entity: **City of Sumter**
Facility: Mayesville WWTF
Location: 3rd Street
Mayesville, SC
Mailing Address: 303 East Liberty Street
Sumter, SC 29150
County: Sumter
Previous Orders: None
Permit/ID Number: Land Application Permit ND0069787
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.505.41 (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 Mayesville, Sumter County, South Carolina. On March 5, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for biochemical oxygen demand (BOD) as reported to the Department for the December 2018 and January 2019 monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its Land Application Permit for BOD.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of one thousand, four hundred dollars **(\$1,400.00)**.

- 39) Order Type and Number: Consent Order 19-031-W
Order Date: May 23, 2019
Individual/Entity: **City of Anderson**
Facility: Rocky River WWTF
Location: 309 Kirkwood Drive
Anderson, SC 29624
Mailing Address: 401 South Main Street
Anderson, SC 29624
County: Anderson
Previous Orders: None
Permit/ID Number: NPDES Permit SC0023744
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: City of Anderson (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Anderson County, South Carolina. On January 31, 2019, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) reported to the Department for the November 2018 and December 2018 monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its National Pollutant Discharge Elimination System permit for E. coli.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

- 40) Order Type and Number: Consent Order 19-032-W
Order Date: May 23, 2019
Individual/Entity: **Middleton Inn Company**
Facility: Inn at Middleton Place
Location: 4290 Ashley River Road
Charleston, SC 29414-7206
Mailing Address: Same
County: Dorchester
Previous Orders: None
Permit/ID Number: NPDES Permit SC0039063
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Middleton Inn Company (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Dorchester County, South Carolina. On November 6, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Enterococci (EC) as reported to the Department for the September 2018 and December 2018 monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for EC.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)**.

41) Order Type and Number: Consent Order 19-033-W
Order Date: May 23, 2019
Individual/Entity: **Lancaster County Water & Sewer District**
Facility: Indian Land WWTF
Location: River Road, SW of Hwy 21
Lancaster County, SC
Mailing Address: P.O. Box 1009
Lancaster, SC 29721
County: Lancaster
Previous Orders: None
Permit/ID Number: NPDES Permit SC0047864
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Lancaster County Water & Sewer District (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Indian Land wastewater treatment facility (WWTF) located in Lancaster County, South Carolina. On October 17, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) for the August 2018 and September 2018 monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its National Pollutant Discharge Elimination System permit for E. coli.

Action: The Individual/Entity is required to: submit a Corrective Action Plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of three thousand, two hundred dollars **(\$3,200.00)**.

42) Order Type and Number: Consent Order 19-034-W
Order Date: May 24, 2019
Individual/Entity: **City of Newberry**
Facility: Bush River WWTF
Location: SC Highway 121
Newberry County, SC
Mailing Address: P.O. Box 538
Newberry, SC 29108
County: Newberry
Previous Orders: None
Permit/ID Number: NPDES Permit SC0024490
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The City of Newberry (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Bush River wastewater treatment facility (WWTF) located in Newberry County, South Carolina. On January 18, 2018, the Department issued a Notice of Violation as result of violations of the permitted discharge limits for chronic effluent

toxicity (CTOX) for the quarterly monitoring periods ending October 2017 and October 2018. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its National Pollutant Discharge Elimination System permit for CTOX.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; monitor for CTOX for one year following the final implementation of the CAP; conduct a Toxicity Identification Evaluation/Toxicity Reduction Evaluation in the event of failure to meet CTOX limits within the year following final implementation of the CAP; submit quarterly progress reports; and, pay a civil penalty in the amount of three thousand, two hundred dollars **(\$3,200.00)**.

43) Order Type and Number: Consent Order 19-035-W
Order Date: May 24, 2019
Individual/Entity: **Town of Clio**
Facility: Town of Clio WWTF
Location: Branch Lane
Marlboro County, SC
Mailing Address: P.O. Box 487
Clio, SC 29525
County: Marlboro
Previous Orders: None
Permit/ID Number: NPDES Permit SC0040606
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The Town of Clio (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Marlboro County, South Carolina. On January 22, 2019, the Department issued a Notice of Violation as result of violations of the permitted discharge limits for biochemical oxygen demand (BOD) reported to the Department for the November 2018 and December 2018 monitoring periods. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of its National Pollutant Discharge Elimination System permit for BOD.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of ninety dollars **(\$90.00)**.

44) Order Type and Number: Consent Order 19-026-W
Order Date: May 28, 2019
Individual/Entity: **Orangeburg School District Four**
Facility: Edisto HS WWTP
Location: 500 R M Foster Road
Cordova, SC 29039
Mailing Address: P.O. Box 69
Cordova, SC 29039
County: Orangeburg
Previous Orders: None
Permit/ID Number: NPDES Permit SC0040185

Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110 (d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Orangeburg School District Four (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment plant (WWTP) located in Orangeburg County, South Carolina. On August 29, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for total copper (TC) as reported on discharge monitoring reports submitted for the quarterly monitoring periods ending May 2018 and August 2018. The Individual/Entity violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for TC.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing compliance with the permitted discharge limits for TC; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

45) Order Type and Number: Consent Order 19-037-W
Order Date: June 3, 2019
Individual/Entity: **Palmetto Utilities, Inc.**
Facility: Spears Creek WWTF
Location: Brazzell Lane
Kershaw County, SC
Mailing Address: 1710 Woodcreek Farms Road
Elgin, SC 29045
County: Kershaw
Previous Orders: None
Permit/ID Number: SC0043451
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110 (d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: Palmetto Utilities, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Spears Creek Wastewater Treatment Facility (WWTF) located in Kershaw County, South Carolina. On April 20, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) and titanium during February 2018. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System Permit for E. coli and titanium.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of twelve thousand dollars **(\$12,000.00)**.

46) Order Type and Number: Consent Order 19-038-W
Order Date: June 3, 2019
Individual/Entity: **LCP Mining Company, LLC**
Facility: Legare Creek Plantation Mine WWTF
Location: 1850 Clark Road, Edisto Island
Charleston County, SC

Mailing Address: P.O. Box 52
Edisto Island, SC 29438
County: Charleston
Previous Orders: None
Permit/ID Number: SC0048488
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.21(d) (2011).

Summary: LCP Mining Company, LLC (Individual/Entity) is responsible for a wastewater treatment facility (WWTF) located in Charleston County, South Carolina. On March 13, 2019, Department staff notified the Individual/Entity that it had failed to submit a timely and administratively complete application for renewal of its National Pollution Discharge Elimination System (NPDES) permit. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit to the Department an administratively complete application for renewal of its NPDES permit at least 180 days prior to the expiration of its permit.

Action: The Individual/Entity is required to: continue operation of its WWTP in accordance with the current NPDES permit until a new permit becomes effective; and, pay a **stipulated penalty** in the amount of one thousand dollars **(\$1,000.00)** should any requirement of the Order not be met.

47) Order Type and Number: Consent Order 19-039-W
Order Date: June 7, 2019
Individual/Entity: **Town of Chapin**
Facility: Chapin WWTF
Location: 525 Holly Oak Road
Lexington County, SC
Mailing Address: P.O. Box 183
Chapin, SC 29036
County: Lexington
Previous Orders: None
Permit/ID Number: SC0040631
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) (2011).

Summary: The Town of Chapin (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Lexington County, South Carolina. The Department conducted an inspection on February 8, 2019. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to at all times properly operate and maintain the WWTF.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of one thousand, seven hundred dollars **(\$1,700.00)**.

48) Order Type and Number: Consent Order 19-040-W
 Order Date: June 7, 2019
 Individual/Entity: **City of Denmark**
 Facility: Denmark WWTF
 Location: Grapevine Road
 Bamberg County, SC
 Mailing Address: 4768 Carolina Avenue
 Denmark, SC 29042

 County: Bamberg
 Previous Orders: None
 Permit/ID Number: SC0040215
 Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
 (d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-
 9.122.41 (a) and (d) (2011).

Summary: The City of Denmark (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Bamberg County, South Carolina. On December 28, 2018, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) during September 2018. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for E. coli.

Action: The Individual/Entity is required to: submit a corrective action plan (CAP) addressing the deficiencies; and, pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

49) Order Type and Number: Consent Order 19-041-W
 Order Date: June 3, 2019
 Individual/Entity: **Town of Great Falls**
 Facility: Great Falls WWTF
 Location: 5803 Brooklyn Road
 Chester County, SC
 Mailing Address: P.O. Box 177
 Great Falls, SC 29055

 County: Chester
 Previous Orders: None
 Permit/ID Number: SC0021221
 Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110
 (d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-
 9.122.41(a) (2011).

Summary: The Town of Great Falls (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Chester County, South Carolina. On February 8, 2019, the Department issued a Notice of Violation as a result of violations of the permitted discharge limits for Escherichia coli (E. coli) during November 2018. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System permit for E. coli.

50)	<u>Order Type and Number:</u>	Consent Order 19-042-W
	<u>Order Date:</u>	June 11, 2019
	<u>Individual/Entity:</u>	Town of Lamar
	<u>Facility:</u>	Lamar WWTF
	<u>Location:</u>	Secondary Road #449
		Darlington County, SC
	<u>Mailing Address:</u>	P.O. Box 267
		Lamar, SC 29069
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	SC0043702
	<u>Violations Cited:</u>	Pollution Control Act, S.C. Code Ann § 48-1- 110
	(d) (2008 & Supp. 2018); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (e) (1) (2011).	

Action: The Individual/Entity is required to: submit to the Department a corrective action plan (CAP) addressing the deficiencies and pay a civil penalty in the amount of two thousand, eight hundred dollars **(\$2,800.00)**.

51)	<u>Order Type and Number:</u>	Consent Agreement 19-029-W
	<u>Order Date:</u>	May 17, 2019
	<u>Individual/Entity:</u>	Fiddler's Cove Property Owners Association
	<u>Facility:</u>	Fiddler's Cove Dam
	<u>Location:</u>	Approximately one and a quarter (1.25) miles west of the intersection of the Cherokee Foothills Scenic Highway and Dynamite Road in Tamassee, SC
	<u>Mailing Address:</u>	688 The Bear Blvd Tamassee, SC 29686
	<u>County:</u>	Oconee
	<u>Previous Orders:</u>	May 18, 2018 Emergency Order
	<u>Permit/ID Number:</u>	D 4186
	<u>Law Citations:</u>	S.C. Dams and Reservoirs Safety Act, S.C. Code
		Ann. § 49-11-110, <i>et seq.</i> , (2008) and Dams and Reservoirs Safety Act Regulation
		72.1, <i>et seq.</i> (2012)

Summary: Fiddler's Cove Property Owners Association (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Fiddler's Cove Dam in Oconee County, South Carolina. On September 15, 2018, the Department issued an Emergency Order to the Individual/Entity to address unsafe conditions at the dam. The Agreement supersedes and rescinds the Emergency Order and contains remedial actions necessary for addressing deficiencies in the condition of the dam.

Action: The Individual/Entity is required to: maintain a safe water level as to not present a hazard to surrounding residents and property; submit documentation that a professional engineer has been retained to develop a repair or removal plan; submit a permit application for repair of the dam that includes a tree management plan, or an application to remove the dam; submit documentation that all necessary local, state, and federal permit applications have been submitted; submit monthly reports summarizing repair activities; submit notification of repair or removal completion; and pay an expense recovery fee to the Department in the amount of twenty-one thousand four hundred dollars (\$21,400.00).

52)	<u>Order Type and Number:</u>	Consent Agreement 19-030-W
	<u>Order Date:</u>	May 21, 2019
	<u>Individual/Entity:</u>	Darlington County
	<u>Facility:</u>	Lake Darpo Dam
	<u>Location:</u>	Approximately one-half (0.5) mile north of the Darlington County Airport
	<u>Mailing Address:</u>	1 Public Square, Room 210 Darlington, SC 29532
	<u>County:</u>	Darlington
	<u>Previous Orders:</u>	None
	<u>Permit/ID Number:</u>	D 3530
	<u>Law Citations:</u>	S.C. Dams and Reservoirs Safety Act, S.C. Code Ann. § 49-11-110, <i>et seq.</i> , (2008) and Dams and Reservoirs Safety Act Regulation 72.1, <i>et seq.</i> (2012)

Summary: Darlington County (Individual/Entity) owns and is responsible for the proper operation and maintenance of the Lake Darpo Dam in Darlington County, South Carolina. On October 15, 2018, the Department conducted an inspection of the dam. The Agreement concerns remedial actions necessary for addressing deficiencies in the condition of the dam.

Action: The Individual/Entity is required to: maintain the Dam in a condition that does not impound water until the Dam is repaired or removed from the property; notify the Department upon any change in status, ownership, or condition of the Dam; apply for a permit prior to performing any alterations to the Dam; and, obtain a permit under the "Construction Permit Application Requirements" in section 72-3.D.2, if plans are made to repair the Dam after a period of two (2) years from the execution date of the Agreement.

BUREAU OF AIR QUALITY

53) Order Type and Number: Consent Order 19-016-A
Order Date: April 2, 2019
Individual/Entity: **Bennettsville Public Utilities**
Facility: Bennettsville Water Treatment Plant &
Bennettsville Wastewater Treatment Plant
Location: 625 Wallace Road/255 Huckabee Street
Bennettsville, SC 29512
Mailing Address: P.O. Box 1036
Bennettsville, SC 29512
County: Marlboro
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: U.S. EPA 40 CFR 68, and 5 S.C. Code Ann.
Regs. 61-62.68, Section II, Chemical Accident Prevention Provisions

Summary: Bennettsville Public Utilities (Individual/Entity), operates a water treatment plant and a wastewater treatment plant. On June 26, 2018, the Department conducted Risk Management Program inspections at both plants and observed multiple violations of their Risk Management Programs. The Individual/Entity violated South Carolina Air Pollution Control Regulations as follows: failed to implement and maintain its Risk Management Plan in accordance with the requirements of the Regulations.

Action: The Individual/Entity is required to: implement and maintain its Risk Management Plan in accordance with the requirements and pay a civil penalty in the amount of eight thousand dollars **(\$8,000.00)**.

54) Order Type and Number: Consent Order 19-017-A
Order Date: April 23, 2019
Individual/Entity: **Sheri M. Nash**
Facility: Residence
Location: 313 Mt. Tabor Church Road
Union, SC 29379
Mailing Address: Same
County: Union
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: 5 S.C. Code Ann. Regs. 61-62.2, Prohibition of
Open Burning

Summary: Ms. Sheri M. Nash (Individual/Entity), owns residential property located at 313 Mt. Tabor Church Road in Union, S.C. On January 25, 2019, the Department conducted an investigation in response to a complaint of open burning. The Individual/Entity has violated South Carolina Air Pollution Control Regulations as follows: burned materials other than those allowed by Section I of the regulation, specifically, household garbage.

Action: The Individual/Entity is required to: henceforth cease all open burning except as in compliance with the regulations and pay a civil penalty in the amount of five hundred dollars **(\$500.00)**.

55) Order Type and Number: Consent Order 19-018-A
Order Date: June 3, 2019
Individual/Entity: **SI Group, Inc.**
Facility: SI Group, Inc.
Location: 725 Cannon Bridge Road
Orangeburg, SC 29116
Mailing Address: P.O. Box 1028
Orangeburg, SC 29116
County: Orangeburg
Previous Orders: N/A
Permit/ID Number: 1860-0004
Violations Cited: U.S. EPA 40 CFR 63 and 5 S.C. Code Ann. Regs.
61-62.63

Summary: SI Group, Inc., (Individual/Entity), located in Orangeburg, South Carolina, operates a specialty chemical manufacturing facility. On May 1, 2017, the Department conducted a comprehensive inspection. The Individual/Entity has violated U.S. EPA regulations at 40 CFR Part 63 and South Carolina Air Pollution Control Regulations as follows: failed to reduce collective uncontrolled organic hazardous air pollutant (HAP) emissions from chemical Exxal 8 from June 10, 2017 through August 9, 2017; failed to provide records of a complete initial tune-up for PH02 and PH03; failed to provide complete records of annual tune-ups of PH02; and failed to submit a notification of alternative fuel use to the Department within 48 hours of the period of natural gas curtailment that occurred on February 14, 2016.

Action: The Individual/Entity is required to: reduce collective uncontrolled organic HAP emissions (including methanol) from the sum of all batch process vents venting emissions from a sufficient number of the vents through one or more closed-vent systems; perform and maintain records of annual tune-ups of PH02; submit a notification of alternative fuel use within 48 hours of each period of natural gas curtailment or supply interruption; install the approved acoustic monitoring system for the hydrogen flare, and conduct a performance test and submit a NOCS; and pay a civil penalty in the amount of fifteen thousand dollars **(\$15,000.00)**.

56) Order Type and Number: Consent Order 19-019-A
Order Date: June 25, 2019
Individual/Entity: **SPE Properties, LLC**
Facility: SPE Properties, LLC
Location: 1912 E. Montague Ave, Suite 1
North Charleston, SC 29415
Mailing Address: P.O. Box 70927
North Charleston, SC 29415
County: Charleston
Previous Orders: None
Permit/ID Number: R1806004
Violations Cited: U.S. EPA Regulations at 40 CFR Part 61, Subpart M, *National Emission Standard for Asbestos*, and 7 S.C. Code Ann. Regs. 61-86.1, *Standards of Performance for Asbestos Projects*

Summary: SPE Properties, LLC (Individual/Entity) is a property management company which provides housing for communities in the North Charleston, South Carolina area. The Department conducted an investigation on April 13, 2018, and a Department inspector observed a roll-off waste container containing sheetrock and other construction

debris. On April 18, 2018, Department inspectors conducted a follow-up investigation at the Site. The Individual/Entity has violated U.S. EPA Regulations and South Carolina Standards of Performance for Asbestos Projects as follows: failed to obtain an asbestos project license from the Department prior to beginning an asbestos renovation project and failed to ensure an asbestos building inspection was performed prior the renovations at the Site.

Action: The Individual/Entity is required to: ensure that required Department-issued licenses are obtained prior to engaging in future regulated asbestos projects; ensure that an asbestos building inspection is performed in accordance with the regulations prior to engaging in any future renovation/demolition projects at regulated structures; and pay a civil penalty in the amount of five thousand, five hundred dollars **(\$5,500.00)**.

BUREAU OF ENVIRONMENTAL HEALTH SERVICES

Food Safety Enforcement

- | | | |
|-----|---|---|
| 57) | <u>Order Type and Number:</u>
<u>Order Date:</u>
<u>Individual/Entity:</u>

<u>Facility:</u>
<u>Location:</u>

<u>Mailing Address:</u>

<u>County:</u>
<u>Previous Orders:</u>

<u>Permit Number:</u>
<u>Violations Cited:</u> | Administrative Order 2018-206-07-068
April 30, 2019
Sam Mustafa, Individually and D/B/A
 Toast of Charleston
Toast of Charleston
155 Meeting Street
Charleston, SC 29401
P.O. Box 22454
Charleston, SC 29413
Charleston
2017-206-07-001 (\$800.00);
2017-206-07-021 (\$1,200.00)
10-206-05252
S.C. Code Ann. Regs. 61-25 |
|-----|---|---|

Summary: Toast of Charleston (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on June 27, 2017, July 7, 2017, October 11, 2017, August 21, 2018, and February 12, 2019. 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; failed to maintain the premises free of insects, rodents, and other pests; and failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of two thousand, five hundred dollars **(\$2,500.00)**.

- 58) Order Type and Number: Consent Order 2018-206-01-040
Order Date: April 1, 2019
Individual/Entity: **Barnwood Grill**
Facility: Barnwood Grill
Location: 2606 Whitehall Road
Anderson, SC 29626

<u>Mailing Address:</u>	Same
<u>County:</u>	Anderson
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	04-206-03784
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Barnwood Grill (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on November 28, 2017, August 13, 2018, August 14, 2018, August 15, 2018, and August 23, 2018. 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, failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded; failed to provide equipment sufficient in number and capacity to maintain food temperatures for cooling and heating food and holding cold and hot food; and failed to ensure that light bulbs were shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens, or unwrapped single-service and single-use articles.

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, and pay a civil penalty in the amount of two thousand, six hundred dollars **(\$2,600.00)**.

59)	<u>Order Type and Number:</u>	Consent Order 2018-206-01-059
	<u>Order Date:</u>	April 1, 2019
	<u>Individual/Entity:</u>	Subway of Taha Inc
	<u>Facility:</u>	Subway of Taha Inc
	<u>Location:</u>	101 Abercorn Road Townville, SC 29689
	<u>Mailing Address:</u>	303 Sugartime Lane Greer, SC 29651
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	04-206-04200
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Subway of Taha Inc (Individual/Entity) is a restaurant located in Townville, South Carolina. The Department conducted inspections on January 17, 2017, January 10, 2018, October 9, 2018, and October 18, 2018. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

60)	<u>Order Type and Number:</u>	Consent Order 2018-206-02-072
	<u>Order Date:</u>	April 1, 2019
	<u>Individual/Entity:</u>	J & G Family Restaurant
	<u>Facility:</u>	J & G Family Restaurant
	<u>Location:</u>	462 West Henry Street Spartanburg, SC 29306

<u>Mailing Address:</u>	Same
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	N/A
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: J & G Family Restaurant (Individual/Entity) is a restaurant located in Spartanburg, South Carolina. The Department conducted inspections on November 28, 2018, and December 13, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: provided food to the public without a valid permit issued by the Department.

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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

61)	<u>Order Type and Number:</u>	Consent Order 2018-206-06-155
	<u>Order Date:</u>	April 1, 2019
	<u>Individual/Entity:</u>	Rum Bar
	<u>Facility:</u>	Rum Bar
	<u>Location:</u>	405 8 th Avenue North Myrtle Beach, SC 29577
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-12603
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Rum Bar (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on June 1, 2018, December 6, 2018, and December 11, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that during pauses in food preparation or dispensing, food preparation and dispensing utensils were stored in the food with their handles above the top of the food.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

62)	<u>Order Type and Number:</u>	Consent Order 2018-206-06-158
	<u>Order Date:</u>	April 1, 2019
	<u>Individual/Entity:</u>	Arby's #6912
	<u>Facility:</u>	Arby's #6912
	<u>Location:</u>	2709 Dick Pond Road Myrtle Beach, SC 29575
	<u>Mailing Address:</u>	730 Main Street, #306 North Myrtle Beach, SC 29582
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-08587
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Arby's #6912 (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on April 2, 2018, October 25, 2018, and November 5, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

63) Order Type and Number: Consent Order 2019-206-01-007
Order Date: April 1, 2019
Individual/Entity: **Waffle House #1823**
Facility: Waffle House #1823
Location: 2 Justice Lane
Anderson, SC 29621
Mailing Address: P.O. Box 6450
Norcross, GA 30091
County: Anderson
Previous Orders: 2016-206-01-019 (\$800.00)
Permit Number: 04-206-03617
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1823 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on May 17, 2017, April 13, 2018, and February 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper cold 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

64) Order Type and Number: Consent Order 2019-206-02-008
Order Date: April 1, 2019
Individual/Entity: **Poinsett Club**
Facility: Poinsett Club
Location: 807 East Washington Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-02142
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Poinsett Club (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on July 13, 2017, April 12, 2018, and January 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

65) Order Type and Number: Consent Order 2019-206-02-009
 Order Date: April 1, 2019
 Individual/Entity: **Jacs**
 Facility: Jacs
 Location: 61 Beattie Place
 Greenville, SC 29601
 Mailing Address: Same
 County: Greenville
 Previous Orders: None
 Permit Number: 23-206-10856
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jacs (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on April 3, 2018, April 4, 2018, and January 24, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

66) Order Type and Number: Consent Order 2019-206-02-010
 Order Date: April 1, 2019
 Individual/Entity: **Liberty West End**
 Facility: Liberty West End
 Location: 941 South Main Street
 Greenville, SC 29601
 Mailing Address: 1177 Southgate Drive
 Charleston, SC 29407
 County: Greenville
 Previous Orders: 2016-206-02-049 (\$800.00);
 2017-206-02-020 (\$1,500.00);
 2018-206-02-025 (\$1,000.00)
 Permit Number: 23-206-09279
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Liberty West End (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on May 24, 2017, March 14, 2018, and January 10, 2019. 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 when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

67) Order Type and Number: Consent Order 2019-206-02-016
 Order Date: April 1, 2019
 Individual/Entity: **Foundation Grill 311**
 Facility: Foundation Grill 311
 Location: 301 North Main Street
 Greenville, SC 29601
 Mailing Address: 100 Aberdare Lane
 Greenville, SC 29615
 County: Greenville
 Previous Orders: None
 Permit Number: 23-206-11525
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Foundation Grill 311 (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on July 27, 2017, April 25, 2018, and February 7, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

68) Order Type and Number: Consent Order 2019-206-03-015
 Order Date: April 1, 2019
 Individual/Entity: **Goodfellas**
 Facility: Goodfellas
 Location: 760 Highway 378 West, Unit 1
 Lexington, SC 29072
 Mailing Address: Same
 County: Lexington
 Previous Orders: None
 Permit Number: 32-206-06320
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Goodfellas (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on April 19, 2017, April 5, 2018, May 29, 2018, June 7, 2018, and June 11, 2018. 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 keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

69) Order Type and Number: Consent Order 2019-206-05-002
Order Date: April 1, 2019
Individual/Entity: **Sombrero's Mexican Grill**
Facility: Sombrero's Mexican Grill
Location: 8273 Marlboro Avenue, Unit B
Barnwell, SC 29812
Mailing Address: Same
County: Barnwell
Previous Orders: None
Permit Number: 06-206-00558
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Sombrero's Mexican Grill (Individual/Entity) is a restaurant located in Barnwell, South Carolina. The Department conducted inspections on June 8, 2018, October 23, 2018, and February 7, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

70) Order Type and Number: Consent Order 2019-206-06-008
Order Date: April 1, 2019
Individual/Entity: **Little Caesar's #109**
Facility: Little Caesar's #109
Location: 2699 Beaver Run Boulevard
Surfside Beach, SC 29575
Mailing Address: 418 Peanut Plant Road
Elizabethtown, NC 28337
County: Horry
Previous Orders: None
Permit Number: 26-206-13322
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Little Caesar's #109 (Individual/Entity) is a restaurant located in Surfside Beach, South Carolina. The Department conducted inspections on January 8, 2019, January 18, 2019, and January 22, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to comply with the Hazard Analysis Critical Control Policy (HACCP) plan and procedures that are 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

71) Order Type and Number: Consent Order 2019-206-06-013
 Order Date: April 1, 2019
 Individual/Entity: **Waffle House #1988**
 Facility: Waffle House #1988
 Location: 1528 Highway 544
 Conway, SC 29526
 Mailing Address: P.O. Box 6450
 Norcross, GA 30091
 County: Horry
 Previous Orders: None
 Permit Number: 26-206-12425
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Waffle House #1988 (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted inspections on June 12, 2018, January 18, 2019, and January 24, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

72) Order Type and Number: Consent Order 2019-206-07-017
 Order Date: April 1, 2019
 Individual/Entity: **Shelter Kitchen & Bar**
 Facility: Shelter Kitchen & Bar
 Location: 202 Coleman Boulevard
 Mount Pleasant, SC 29465
 Mailing Address: P.O. Box 2513
 Mount Pleasant, SC 29465
 County: Charleston
 Previous Orders: 2018-206-07-070 (\$550.00)
 Permit Number: 10-206-08479
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Shelter Kitchen & Bar (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on October 8, 2018, October 9, 2018, and February 4, 2019. 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 provide equipment sufficient in number and capacity to maintain food temperatures for cooling and heating food and holding cold and hot food.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

73) Order Type and Number: Consent Order 2018-206-02-068
 Order Date: April 4, 2019
 Individual/Entity: **Coffee Underground**
 Facility: Coffee Underground
 Location: 1 East Coffee Street
 Greenville, SC 29601
 Mailing Address: Same
 County: Greenville
 Previous Orders: 2018-206-02-068 (\$1,600.00)
 Permit Number: 23-206-06058
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Coffee Underground (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on October 24, 2018. 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 when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

74) Order Type and Number: Consent Order 2019-206-02-011
 Order Date: April 4, 2019
 Individual/Entity: **Menkoi Udon & Soba House**
 Facility: Menkoi Udon & Soba House
 Location: 241-B North Main Street
 Greenville, SC 29601
 Mailing Address: 801 East Springs Road
 Columbia, SC 29223
 County: Greenville
 Previous Orders: None
 Permit Number: 23-206-11594
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Menkoi Udon & Soba House (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on April 21, 2017, February 1, 2018, and December 4, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

75) Order Type and Number: Consent Order 2019-206-07-004
 Order Date: April 4, 2019
 Individual/Entity: **Whole Foods Prepared/Bakery**
 Facility: Whole Foods Prepared/Bakery
 Location: 923 Houston Northcutt Boulevard
 Mt. Pleasant, SC 29464
 Mailing Address: P.O. Box 684786
 Austin, TX 78768
 County: Charleston
 Previous Orders: None
 Permit Number: 10-206-04968
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Whole Foods Prepared/Bakery (Individual/Entity) operates a bakery located in Mount Pleasant, South Carolina. The Department conducted inspections on September 5, 2017, January 22, 2018, January 31, 2018, and January 9, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the temperature of the fresh hot water sanitizing rinse as it enters the manifold, may not be more than 194 degrees in a mechanical operation, or less than 165 degrees for a stationary rack, single temperature machine; or less than 180 degrees for all other machines.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

76) Order Type and Number: Consent Order 2019-206-01-011
 Order Date: April 8, 2019
 Individual/Entity: **China Super Buffet**
 Facility: China Super Buffet
 Location: 3323 North Main Street
 Anderson, SC 29621
 Mailing Address: Same
 County: Anderson
 Previous Orders: 2015-206-01-043 (\$800.00)
 Permit Number: 04-206-03849
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Super Buffet (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on April 10, 2017, February 13, 2018, and February 6, 2019. 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 protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor.

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, and pay a civil penalty in the amount of three thousand dollars **(\$3,000.00)**.

77) Order Type and Number: Consent Order 2019-206-07-009
 Order Date: April 8, 2019
 Individual/Entity: **Smoke**
 Facility: Smoke
 Location: 487 King Street
 Charleston, SC 29403
 Mailing Address: Same
 County: Charleston
 Previous Orders: None
 Permit Number: 10-206-08481
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Smoke (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on January 25, 2017, January 2, 2018, and January 2, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

78) Order Type and Number: Consent Order 2019-206-02-021
 Order Date: April 9, 2019
 Individual/Entity: **NY Hibachi and Sushi Buffet**
 Facility: NY Hibachi and Sushi Buffet
 Location: 151 Dorman Centre Drive
 Spartanburg, SC 29301
 Mailing Address: Same
 County: Spartanburg
 Previous Orders: None
 Permit Number: 42-206-06594
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: NY Hibachi and Sushi Buffet (Individual/Entity) is a restaurant located in Spartanburg, South Carolina. The Department conducted inspections on December 3, 2018, February 6, 2019, and February 15, 2019. 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 during pauses in food preparation or dispensing, food preparation and dispensing utensils were stored in the food with their handles above the top of the food.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

79) Order Type and Number: Consent Order 2019-206-02-024
Order Date: April 9, 2019
Individual/Entity: **Neo Burrito**
Facility: Neo Burrito
Location: 1268 Pendleton Street
Greenville, SC 29611
Mailing Address: 210 Westover Drive
Asheville, NC 28801
County: Greenville
Previous Orders: None
Permit Number: 23-206-11897
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Neo Burrito (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on May 15, 2018, May 22, 2018, and February 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

80) Order Type and Number: Consent Order 2019-206-03-021
Order Date: April 9, 2019
Individual/Entity: **Bojangles #816**
Facility: Bojangles #816
Location: 145 East Columbia Avenue
Batesburg, SC 29006
Mailing Address: 9432 Southern Pine Boulevard
Charlotte, NC 28273
County: Lexington
Previous Orders: None
Permit Number: 32-206-05561
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bojangles #816 (Individual/Entity) is a restaurant located in Batesburg, South Carolina. The Department conducted inspections on January 9, 2018, October 24, 2018, November 2, 2018, and January 18, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

81) Order Type and Number: Consent Order 2019-206-03-023
 Order Date: April 9, 2019
 Individual/Entity: **Bojangles #017**
 Facility: Bojangles #017
 Location: 930 Elmwood Avenue
 Columbia, SC 29201
 Mailing Address: 9432 Southern Pine Boulevard
 Charlotte, NC 28273
 County: Richland
 Previous Orders: None
 Permit Number: 40-206-02094
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bojangles #017 (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on April 30, 2018, June 8, 2018, February 28, 2019, March 5, 2019, and March 15, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to clean the physical facilities as often as necessary to keep them clean and failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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, and pay a civil penalty in the amount of six hundred dollars **(\$600.00)**.

82) Order Type and Number: Consent Order 2019-206-01-015
 Order Date: April 10, 2019
 Individual/Entity: **China Kitchen**
 Facility: China Kitchen
 Location: 101 Washington Street
 Abbeville, SC 29620
 Mailing Address: Same
 County: Abbeville
 Previous Orders: None
 Permit Number: 01-206-00743
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Kitchen (Individual/Entity) is a restaurant located in Abbeville, South Carolina. The Department conducted inspections on July 24, 2017, June 8, 2018, February 22, 2019, and March 5, 2019. 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, and pay a civil penalty in the amount of one thousand, three hundred fifty dollars **(\$1,350.00)**.

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| 85) | <u>Order Type and Number:</u> | Consent Order 2018-206-06-153 |
| | <u>Order Date:</u> | April 12, 2019 |
| | <u>Individual/Entity:</u> | Taqueria Guanajuato LLC |
| | <u>Facility:</u> | Taqueria Guanajuato LLC |
| | <u>Location:</u> | 3901 Dick Pond Road
Myrtle Beach, SC 29588 |

Mailing Address: 4687 Peachwood Court
Myrtle Beach, SC 29588
County: Horry
Previous Orders: 2018-206-06-026 (\$600.00);
2018-206-06-053 (\$200.00)
Permit Number: 26-206-13279
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Taqueria Guanajuato LLC (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on January 25, 2018, May 17, 2018, and October 26, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

86) Order Type and Number: Consent Order 2019-206-01-009
Order Date: April 12, 2019
Individual/Entity: **Bake and Cook Thai Restaurant**
Facility: Bake and Cook Thai Restaurant
Location: 405 College Avenue
Clemson, SC 29631
Mailing Address: Same
County: Pickens
Previous Orders: 2016-206-02-009 (\$800.00);
2018-206-02-028 (\$800.00)
Permit Number: 39-206-01890
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bake and Cook Thai Restaurant (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted an inspection on February 6, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

87) Order Type and Number: Consent Order 2019-206-02-012
Order Date: April 12, 2019
Individual/Entity: **Vic's Pizza**
Facility: Vic's Pizza
Location: 12 East Coffee Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: 2017-206-02-037 (\$800.00)

Permit Number: 23-206-11285
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Vic's Pizza (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on August 30, 2017, February 8, 2018, and December 12, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

88) Order Type and Number: Consent Order 2019-206-02-020
Order Date: April 12, 2019
Individual/Entity: **Tin Lizzy's Cantina**
Facility: Tin Lizzy's Cantina
Location: 1025 Woodruff Road, Suite G-101
Greenville, SC 29607
Mailing Address: 2030 Powers Ferry Road, Suite 460
Atlanta, GA 30339
County: Greenville
Previous Orders: None
Permit Number: 23-206-10393
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tin Lizzy's Cantina (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on April 19, 2018, February 12, 2019, and February 21, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

89) Order Type and Number: Consent Order 2019-206-06-007
Order Date: April 12, 2019
Individual/Entity: **Taqueria Guanajuato LLC**
Facility: Taqueria Guanajuato LLC
Location: 3901 Dick Pond Road
Myrtle Beach, SC 29588
Mailing Address: 4687 Peachwood Court
Myrtle Beach, SC 29588
County: Horry
Previous Orders: 2018-206-06-026 (\$600.00);
2018-206-06-053 (\$200.00);
2018-206-06-153 (\$800.00)
Permit Number: 26-206-13279
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Taqueria Guanajuato LLC (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on October 26, 2018, November 6, 2018, and January 15, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

90) Order Type and Number: Consent Order 2018-206-06-166
Order Date: April 18, 2019
Individual/Entity: **Bellagio Italian Restaurant**
Facility: Bellagio Italian Restaurant
Location: 3550 Old Kings Highway
Murrells Inlet, SC 29576
Mailing Address: 8768 Chandler Drive, Apartment B
Surfside Beach, SC 29575
County: Georgetown
Previous Orders: None
Permit Number: 26-206-06096
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bellagio Italian Restaurant (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted inspections on January 5, 2017, September 26, 2017, October 6, 2017, January 23, 2018, February 27, 2018, May 23, 2018, September 4, 2018, and November 13, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for Food Protection.

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, and pay a civil penalty in the amount of one thousand, five hundred dollars **(\$1,500.00)**.

91) Order Type and Number: Consent Order 2019-206-01-006
Order Date: April 18, 2019
Individual/Entity: **Papas & Beer**
Facility: Papas & Beer
Location: 160 West Beltline Boulevard
Anderson, SC 29625
Mailing Address: Same
County: Anderson
Previous Orders: None
Permit Number: 04-206-03936
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Papas & Beer (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 29, 2017, June 5, 2018, and January 15, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

92) Order Type and Number: Consent Order 2019-206-01-014
 Order Date: April 18, 2019
 Individual/Entity: **Cracker Barrel #124**
 Facility: Cracker Barrel #124
 Location: 126 Interstate Boulevard
 Anderson, SC 29621
 Mailing Address: 311 Hartman Drive
 Lebanon, TN 37088
 County: Anderson
 Previous Orders: None
 Permit Number: 04-206-02066
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Cracker Barrel #124 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on August 18, 2016, August 15, 2017, April 18, 2018, and February 25, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that after cleaning and sanitizing, equipment and utensils were properly air-dried before contact with food and may not be cloth dried.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

93) Order Type and Number: Consent Order 2019-206-01-017
 Order Date: April 18, 2019
 Individual/Entity: **Famous Pizza of Anderson**
 Facility: Famous Pizza of Anderson
 Location: 1417 Pearman Dairy Road
 Anderson, SC 29625
 Mailing Address: Same
 County: Anderson
 Previous Orders: 2017-206-01-020 (\$800.00);
 2018-206-01-009 (\$1,000.00)
 Permit Number: 04-206-02108
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Famous Pizza of Anderson (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 20, 2017, April 25, 2018, and February 27, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded; failed to maintain the proper sanitization concentration in a chemical sanitizer used in a manual or mechanical operation during contact times; and failed

to frequently clean the warewashing machine, the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, raw foods, or laundering wiping cloths, and drainboards.

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, and pay a civil penalty in the amount of one thousand, two hundred fifty dollars **(\$1,250.00)**.

94) Order Type and Number: Consent Order 2019-206-01-020
 Order Date: April 18, 2019
 Individual/Entity: **La Hacienda of Greenwood Inc.**
 Facility: La Hacienda of Greenwood Inc.
 Location: 515-C Bypass 72 NW
 Greenwood, SC 29649
 Mailing Address: Same
 County: Greenwood
 Previous Orders: 2017-206-01-024 (\$3,800.00)
 Permit Number: 24-206-01796
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: La Hacienda of Greenwood Inc. (Individual/Entity) is a restaurant located in Greenwood, South Carolina. The Department conducted an inspection on June 4, 2018. 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.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

95) Order Type and Number: Consent Order 2019-206-02-001
 Order Date: April 18, 2019
 Individual/Entity: **Lowe's #264 Deli & Sushi**
 Facility: Lowe's #264 Deli & Sushi
 Location: 2815 Woodruff Road
 Simpsonville, SC 29681
 Mailing Address: 1381 Old Mill Circle
 Winston Salem, NC 27103
 County: Greenville
 Previous Orders: None
 Permit Number: 23-206-11583
 Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Lowe's #264 Deli & Sushi (Individual/Entity) operates a deli and sushi bar located in Simpsonville, South Carolina. The Department conducted inspections on April 10, 2017, April 20, 2017, January 30, 2018, and December 11, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain proper hot holding temperatures of time/temperature control for safety foods and failed to maintain proper cold 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

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| 96) | <u>Order Type and Number:</u> | Consent Order 2019-206-02-022 |
| | <u>Order Date:</u> | April 18, 2019 |
| | <u>Individual/Entity:</u> | Blue Heron |
| | <u>Facility:</u> | Blue Heron |
| | <u>Location:</u> | 405 College Avenue, Suite 130
Clemson, SC 29631 |
| | <u>Mailing Address:</u> | Same |
| | <u>County:</u> | Pickens |
| | <u>Previous Orders:</u> | None |
| | <u>Permit Number:</u> | 39-206-01194 |
| | <u>Violations Cited:</u> | S.C. Code Ann. Regs. 61-25 |

Summary: Blue Heron (Individual/Entity) is a restaurant located in Clemson, South Carolina. The Department conducted inspections on February 26, 2018, February 26, 2019, and March 8, 2019. 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, and pay a civil penalty in the amount of five hundred fifty dollars **(\$550.00)**.

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| 97) | <u>Order Type and Number:</u> | Consent Order 2019-206-03-026 |
| | <u>Order Date:</u> | April 18, 2019 |
| | <u>Individual/Entity:</u> | Mediterranean Tea Room |
| | <u>Facility:</u> | Mediterranean Tea Room |
| | <u>Location:</u> | 2601 Devine Street
Columbia, SC 29205 |
| | <u>Mailing Address:</u> | Same |
| | <u>County:</u> | Richland |
| | <u>Previous Orders:</u> | None |
| | <u>Permit Number:</u> | 40-206-03995 |
| | <u>Violations Cited:</u> | S.C. Code Ann. Regs. 61-25 |

Summary: Mediterranean Tea Room (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 24, 2017, March 19, 2018, and March 8, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that ice may not be used as food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

98) Order Type and Number: Consent Order 2019-206-06-024
Order Date: April 18, 2019
Individual/Entity: **Boardwalk Billys**
Facility: Boardwalk Billys
Location: 1407 13th Avenue North
North Myrtle Beach, SC 29582
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-12407
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Boardwalk Billys (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on April 27, 2018, August 22, 2018, and January 16, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

99) Order Type and Number: Consent Order 2019-206-06-027
Order Date: April 18, 2019
Individual/Entity: **China King II**
Facility: China King II
Location: 2244 South Fraser Street
Georgetown, SC 29440
Mailing Address: Same
County: Georgetown
Previous Orders: None
Permit Number: 22-206-06118
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China King II (Individual/Entity) is a restaurant located in Georgetown, South Carolina. The Department conducted inspections on May 1, 2017, November 13, 2017, April 25, 2018, and February 15, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

100) Order Type and Number: Consent Order 2019-206-06-029
Order Date: April 18, 2019
Individual/Entity: **King Street Grille**
Facility: King Street Grille
Location: 3040 Howard Avenue
Myrtle Beach, SC 29577
Mailing Address: P.O. Box 30429

	Charleston, SC 29417
<u>County:</u>	Horry
<u>Previous Orders:</u>	2018-206-06-138 (\$200.00)
<u>Permit Number:</u>	26-206-11152
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: King Street Grille (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on August 7, 2018, October 12, 2018, and February 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food; failed to clean ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment at a frequency specified by the manufacturer, or at a frequency necessary to preclude accumulation of soil or mold; and 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, and pay a civil penalty in the amount of one thousand, two hundred fifty dollars **(\$1,250.00)**.

101)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-030
	<u>Order Date:</u>	April 18, 2019
	<u>Individual/Entity:</u>	CW's Wing and Rib Shack
	<u>Facility:</u>	CW's Wing and Rib Shack
	<u>Location:</u>	117 A Rivertown Boulevard Conway, SC 29526
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Horry
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	26-206-13105
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: CW's Wing and Rib Shack (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted inspections on August 16, 2017, April 9, 2018, and January 31, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to clean the physical facilities as often as necessary to keep them clean and failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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,

102)	<u>Order Type and Number:</u>	Consent Order 2019-206-06-036
	<u>Order Date:</u>	April 18, 2019
	<u>Individual/Entity:</u>	Piggly Wiggly #80 Deli
	<u>Facility:</u>	Piggly Wiggly #80 Deli
	<u>Location:</u>	15 West Ashland Street

Mailing Address: Andrews, SC 29510
415 North Salem Avenue
Sumter, SC 29150
County: Georgetown
Previous Orders: None
Permit Number: 22-206-06238
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Piggly Wiggly #80 Deli (Individual/Entity) is a deli located in Andrews, South Carolina. The Department conducted inspections on March 23, 2018, August 15, 2018, and February 11, 2019. 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 when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

103) Order Type and Number: Consent Order 2019-206-07-020
Order Date: April 18, 2019
Individual/Entity: **Mozzo Deli Caterer**
Facility: Mozzo Deli Caterer
Location: 730 Coleman Boulevard
Mt. Pleasant, SC 29464
Mailing Address: 328 Ginned Cotton Street
Daniel Island, SC 29492
County: Charleston
Previous Orders: None
Permit Number: 10-206-07060
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Mozzo Deli Caterer (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on August 23, 2017, March 5, 2018, and February 27, 2019. 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 provide equipment sufficient in number and capacity to maintain food temperatures for cooling and heating food and holding cold and hot food.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

104) Order Type and Number: Consent Order 2019-208-03-001
Order Date: April 18, 2019
Individual/Entity: **Broad River Correctional Institution**
Facility: Broad River Correctional Institution
Location: 4460 Broad River Road
Columbia, SC 29210

<u>Mailing Address:</u>	Same
<u>County:</u>	Richland
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	40-208-01842
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Broad River Correctional Institution (Individual/Entity) operates a cafeteria located in Columbia, South Carolina. The Department conducted inspections on November 27, 2018, December 6, 2018, and February 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

105) <u>Order Type and Number:</u>	Consent Order 2019-206-01-016
<u>Order Date:</u>	April 19, 2019
<u>Individual/Entity:</u>	Dugout Sports Lounge
<u>Facility:</u>	Dugout Sports Lounge
<u>Location:</u>	4016 Clemson Boulevard Anderson, SC 29621
<u>Mailing Address:</u>	P.O. Box 5421 Anderson, SC 29623
<u>County:</u>	Anderson
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	04-206-02796
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Dugout Sports Lounge (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 12, 2017, April 30, 2018, and March 4, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

106) <u>Order Type and Number:</u>	Consent Order 2019-206-01-019
<u>Order Date:</u>	April 19, 2019
<u>Individual/Entity:</u>	Civic Center of Anderson
<u>Facility:</u>	Civic Center of Anderson
<u>Location:</u>	3027 Martin Luther King Junior Boulevard Anderson, SC 29625
<u>Mailing Address:</u>	P.O. Box 199 Anderson, SC 29621
<u>County:</u>	Anderson
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	04-206-02869

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: Civic Center of Anderson (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 22, 2017, April 17, 2018, and February 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: the facility failed to meet the lighting intensity as measured by foot candles throughout specific areas of the facility. The regulation has specific requirements for lighting intensity based on food preparation or cleaning procedures that are done in certain areas throughout the facility.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

107) Order Type and Number: Consent Order 2019-206-02-015
Order Date: April 19, 2019
Individual/Entity: **Berto's Mexican Kitchen**
Facility: Berto's Mexican Kitchen
Location: 100 Batesville Road
Simpsonville, SC 29681
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-10808
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Berto's Mexican Kitchen (Individual/Entity) is a restaurant located in Simpsonville, South Carolina. The Department conducted inspections on April 11, 2017, March 15, 2018, and February 6, 2019. 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.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

108) Order Type and Number: Consent Order 2019-206-03-001
Order Date: April 19, 2019
Individual/Entity: **Jason's Deli**
Facility: Jason's Deli
Location: 823 Gervais Street, Suite 100
Columbia, SC 29201
Mailing Address: 2400 Broadway
Beaumont, TX 77702
County: Richland
Previous Orders: None
Permit Number: 40-206-06652
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jason's Deli (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on December 29, 2017, January 26, 2018,

February 5, 2018, and November 26, 2018. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

109) Order Type and Number: Consent Order 2019-206-04-006
Order Date: April 19, 2019
Individual/Entity: **Cici's Pizza**
Facility: Cici's Pizza
Location: 1945 West Palmetto Street
Florence, SC 29501
Mailing Address: 430 Ramsey Street
Fayetteville, NC 28301
County: Florence
Previous Orders: 2018-206-04-002 (\$750.00)
Permit Number: 21-206-02822
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Cici's Pizza (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted an inspection on February 15, 2018. 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.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

110) Order Type and Number: Consent Order 2019-206-04-008
Order Date: April 19, 2019
Individual/Entity: **Pizza Time**
Facility: Pizza Time
Location: 154 Highway 15/401 Bypass
Bennettsville, SC 29512
Mailing Address: Same
County: Marlboro
Previous Orders: None
Permit Number: 34-206-00304
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Pizza Time (Individual/Entity) is a restaurant located in Bennettsville, South Carolina. The Department conducted inspections on February 20, 2018, February 8, 2019, and February 15, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

111) Order Type and Number: Consent Order 2019-206-06-005
Order Date: April 19, 2019
Individual/Entity: **Surfside Jenny's**
Facility: Surfside Jenny's
Location: 1013 Glenns Bay Road
Surfside Beach, SC 29575
Mailing Address: Same
County: Horry
Previous Orders: 2016-206-06-046 (\$1,200.00);
2016-206-06-050 (\$800.00)
Permit Number: 26-206-08782
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Surfside Jenny's (Individual/Entity) is a restaurant located in Surfside Beach, South Carolina. The Department conducted inspections on May 16, 2018, September 5, 2018, and January 15, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

112) Order Type and Number: Consent Order 2019-206-06-021
Order Date: April 19, 2019
Individual/Entity: **Country Inn & Suites**
Facility: Country Inn & Suites
Location: 3516 Waccamaw Boulevard
Myrtle Beach, SC 29579
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-11629
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Country Inn & Suites (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on June 16, 2017, April 3, 2018, and February 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

113) Order Type and Number: Consent Order 2019-206-07-019
Order Date: April 19, 2019
Individual/Entity: **Food with Phyllis**
Facility: Food with Phyllis
Location: 122 A North Highway 52
Moncks Corner, SC 29461
Mailing Address: Same
County: Berkeley
Previous Orders: None
Permit Number: 08-206-11091
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Food with Phyllis (Individual/Entity) is a restaurant, located in Moncks Corner, South Carolina. The Department conducted inspections on March 13, 2018, January 24, 2019, January 25, 2019, February 5, 2019, and February 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for Food Protection.

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, and pay a civil penalty in the amount of six hundred dollars **(\$600.00)**.

114) Order Type and Number: Consent Order 2019-206-01-023
Order Date: April 23, 2019
Individual/Entity: **Great Wall of China**
Facility: Great Wall of China
Location: 234 Bypass 72 NW
Greenwood, SC 29649
Mailing Address: Same
County: Greenwood
Previous Orders: None
Permit Number: 24-206-01946
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Great Wall of China (Individual/Entity) is a restaurant located in Greenwood, South Carolina. The Department conducted inspections on August 22, 2018, September 24, 2018, and March 18, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

115) Order Type and Number: Consent Order 2019-206-03-013
Order Date: April 23, 2019
Individual/Entity: **Banister's**
Facility: Banister's
Location: 1331 US Highway 321 Bypass
Winnsboro, SC 29180

Mailing Address: 2938 Highway 269
Winnsboro, SC 29180
County: Fairfield
Previous Orders: None
Permit Number: 20-206-01663
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Banister's (Individual/Entity) is a restaurant located in Winnsboro, South Carolina. The Department conducted inspections on February 21, 2017, February 15, 2018, and February 7, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

116) Order Type and Number: Consent Order 2019-206-03-017
Order Date: April 23, 2019
Individual/Entity: **Dairy Queen/Orange Julius**
Facility: Dairy Queen/Orange Julius
Location: 100 Columbiana Circle, Suite 1252
Columbia, SC 29212
Mailing Address: Same
County: Lexington
Previous Orders: 2017-206-03-103 (\$200.00)
Permit Number: 32-206-05595
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Dairy Queen/Orange Julius (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 9, 2018, January 29, 2019, February 6, 2019, and February 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

117) Order Type and Number: Consent Order 2019-206-03-027
Order Date: April 23, 2019
Individual/Entity: **City Gas & Fuel**
Facility: City Gas & Fuel
Location: 4808 Fish Hatchery Road
Lexington, SC 29073
Mailing Address: Same
County: Lexington
Previous Orders: 2018-206-03-028 (\$400.00)
Permit Number: 32-206-06367
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: City Gas & Fuel (Individual/Entity) is a convenience store located in Lexington, South Carolina. The Department conducted inspections on March 12, 2018, August 15, 2018, August 24, 2018, and March 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

118) Order Type and Number: Consent Order 2019-206-03-029
Order Date: April 23, 2019
Individual/Entity: **Chopstix Chinese**
Facility: Chopstix Chinese
Location: 2639 Broad River Road
Columbia, SC 29210
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-05474
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Chopstix Chinese (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on October 24, 2018, December 3, 2018, and March 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

119) Order Type and Number: Consent Order 2019-206-06-025
Order Date: April 23, 2019
Individual/Entity: **Drinking Class Sports Bar**
Facility: Drinking Class Sports Bar
Location: 3389 South Highway 9
Little River, SC 29566
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-12974
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Drinking Class Sports Bar (Individual/Entity) is a restaurant located in Little River, South Carolina. The Department conducted inspections on August 2, 2018, August 10, 2018, August 16, 2018, and January 30, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

120) Order Type and Number: Consent Order 2019-206-06-028
Order Date: April 23, 2019
Individual/Entity: **Subway #24384**
Facility: Subway #24384
Location: 3944 Highway 17
Murrells Inlet, SC 29576
Mailing Address: 3691 Palmetto Pointe Boulevard, #101
Myrtle Beach, SC 29588
County: Georgetown
Previous Orders: 2016-206-06-103 (\$800.00);
2018-206-06-027 (\$1,000.00)
Permit Number: 22-206-05702
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Subway #24384 (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted an inspection on February 11, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

121) Order Type and Number: Consent Order 2019-206-06-035
Order Date: April 23, 2019
Individual/Entity: **SeaMist Restaurant**
Facility: SeaMist Restaurant
Location: 1200 South Ocean Boulevard
Myrtle Beach, SC 29577
Mailing Address: P.O. Box 2548
Myrtle Beach, SC 29578
County: Horry
Previous Orders: None
Permit Number: 26-206-03020
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: SeaMist Restaurant (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on June 6, 2018, November 1, 2018, and February 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to remove dead or trapped birds, insects, rodents, and other pests from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

122) Order Type and Number: Consent Order 2019-206-01-022
Order Date: April 24, 2019
Individual/Entity: **Sue's Wings and Things**
Facility: Sue's Wings and Things
Location: 4711 Highway 81 North
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: 2016-206-01-017 (\$800.00)
Permit Number: 04-206-03644
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Sue's Wings and Things (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on February 22, 2018, July 31, 2019, and February 25, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

123) Order Type and Number: Consent Order 2019-206-03-016
Order Date: April 24, 2019
Individual/Entity: **Margarets**
Facility: Margarets
Location: 11170 Garners Ferry Road
Eastover, SC 29044
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-05832
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Margarets (Individual/Entity) is a restaurant located in Eastover, South Carolina. The Department conducted inspections on March 23, 2017, February 27, 2017, and February 12, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

124) Order Type and Number: Consent Order 2019-206-03-019
Order Date: April 24, 2019
Individual/Entity: **Sonic Drive-In #2431**
Facility: Sonic Drive-In #2431
Location: 312 Columbia Avenue
Lexington, SC 29072
Mailing Address: 5623 Fairfield Road

<u>County:</u>	Columbia, SC 29203
<u>Previous Orders:</u>	Lexington
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	32-206-02054
	S.C. Code Ann. Regs. 61-25

Summary: Sonic Drive-In #2431 (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on June 13, 2017, May 29, 2018, May 30, 2018, and February 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris and failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

125) <u>Order Type and Number:</u>	Consent Order 2019-206-06-037
<u>Order Date:</u>	April 24, 2019
<u>Individual/Entity:</u>	Jersey Mike's NMB
<u>Facility:</u>	Jersey Mike's NMB
<u>Location:</u>	515 Highway 17 North North Myrtle Beach, SC 29582
<u>Mailing Address:</u>	712 Dove Haven Lane Myrtle Beach, SC 29579
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	26-206-11772
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Jersey Mike's NMB (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on April 11, 2018, February 28, 2019, and March 7, 2019. 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, and pay a civil penalty in the amount of five hundred fifty dollars **(\$550.00)**.

126) <u>Order Type and Number:</u>	Consent Order 2019-206-01-012
<u>Order Date:</u>	April 25, 2019
<u>Individual/Entity:</u>	Anderson Wing LLC
<u>Facility:</u>	Anderson Wing LLC
<u>Location:</u>	119 Interstate Boulevard Anderson, SC 29621
<u>Mailing Address:</u>	830 Lowcountry Boulevard, Suite 200 Mount Pleasant, SC 29624
<u>County:</u>	Anderson
<u>Previous Orders:</u>	2018-206-01-006 (\$1,000.00)

Permit Number: 04-206-04218
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Anderson Wing LLC (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 17, 2018, October 26, 2018, December 5, 2018, December 13, 2018, December 18, 2018, January 10, 2019, and January 30, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that after cleaning and sanitizing, equipment and utensils were properly air-dried before contact with food and may not be cloth dried; failed to maintain the physical facilities in good repair; and failed to provide mechanical ventilation of sufficient capacity, to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

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, and pay a civil penalty in the amount of one thousand, seven hundred fifty dollars **(\$1,750.00)**.

127) Order Type and Number: Consent Order 2019-206-01-025
Order Date: April 25, 2019
Individual/Entity: **Zaxby's**
Facility: Zaxby's
Location: 652 Highway 28 Bypass
Anderson, SC 29624
Mailing Address: 1351 Stonebridge Parkway, Building 104A
Watkinsville, GA 30677
County: Anderson
Previous Orders: None
Permit Number: 04-206-02879
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Zaxby's (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on October 4, 2016, July 10, 2017, May 31, 2018, and April 3, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that after cleaning and sanitizing, equipment and utensils were properly air-dried before contact with food; and may not be cloth dried.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

128) Order Type and Number: Consent Order 2019-206-03-031
Order Date: April 25, 2019
Individual/Entity: **Wild Wing Café**
Facility: Wild Wing Café
Location: 729 Lady Street
Columbia, SC 29201
Mailing Address: 205 Regency Executive Park Drive, Suite 204
Charlotte, NC 28217
County: Richland

Previous Orders: 2014-206-03-089 (\$250.00)
Permit Number: 40-206-06825
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Wild Wing Café (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 19, 2018, March 12, 2019, and March 20, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

129) Order Type and Number: Consent Order 2019-206-06-030
Order Date: April 25, 2019
Individual/Entity: **Church's Chicken #823**
Facility: Church's Chicken #823
Location: 2001 Broad River Road
Columbia, SC 29210
Mailing Address: 980 Hammond Drive, Suite 100
Atlanta, GA 30328
County: Richland
Previous Orders: None
Permit Number: 40-206-08254
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Church's Chicken #823 (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted inspections on October 1, 2018, December 12, 2018, and March 12, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

130) Order Type and Number: Consent Order 2019-206-07-024
Order Date: April 25, 2019
Individual/Entity: **Hibachi Grill**
Facility: Hibachi Grill
Location: 1000 Tanner Ford Boulevard
Hanahan, SC 29410
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 08-206-06901
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hibachi Grill (Individual/Entity) is a restaurant located in Hanahan, South Carolina. The Department conducted inspections on March 27, 2017, March 27, 2018, and

February 27, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded and failed to protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

131) Order Type and Number: Consent Order 2019-206-01-024
Order Date: April 26, 2019
Individual/Entity: **Bountyland Quick Stop #7**
Facility: Bountyland Quick Stop #7
Location: 6415 Highway 24
Townville, SC 29689
Mailing Address: 1510 Blue Ridge Boulevard, Suite 202
Seneca, SC 29672
County: Anderson
Previous Orders: None
Permit Number: 04-206-02776
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bountyland Quick Stop #7 (Individual/Entity) is a convenience store located in Townville, South Carolina. The Department conducted inspections on June 7, 2017, April 11, 2018, and March 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

132) Order Type and Number: Consent Order 2019-206-03-035
Order Date: April 26, 2019
Individual/Entity: **No. 1 China 2**
Facility: No. 1 China 2
Location: 5214 Highway 321
Gaston, SC 29053
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-05881
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: No. 1 China 2 (Individual/Entity) is a restaurant located in Gaston, South Carolina. The Department conducted inspections on January 19, 2018, September 6, 2018, and March 25, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature

control is used as a public health control, the food in unmarked containers or packages shall be discarded and failed to ensure that except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

133) Order Type and Number: Consent Order 2019-206-01-018
Order Date: May 6, 2019
Individual/Entity: **BJ Southern Buffet**
Facility: BJ Southern Buffet
Location: 726-B Montague Avenue
Greenwood, SC 29649
Mailing Address: Same
County: Greenwood
Previous Orders: None
Permit Number: 24-206-03128
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: BJ Southern Buffet (Individual/Entity) is a restaurant located in Greenwood, South Carolina. The Department conducted inspections on October 10, 2018, October 19, 2018, November 13, 2018, and February 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

134) Order Type and Number: Consent Order 2019-206-03-018
Order Date: May 6, 2019
Individual/Entity: **Flaming Grill Supreme Buffet**
Facility: Flaming Grill Supreme Buffet
Location: 115 Afton Court
Columbia, SC 29212
Mailing Address: Same
County: Lexington
Previous Orders: 2016-206-03-040 (\$1,200.00);
2017-206-03-110 (\$800.00);
2017-206-03-101 (\$1,200.00);
2018-206-03-137 (\$2,000.00);
2019-206-03-006 (\$1,250.00)
Permit Number: 32-206-06518
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Flaming Grill Supreme Buffet (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted an inspection on February 25, 2019.

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; failed to maintain proper holding temperatures of time/temperature control for safety foods; and failed to clean ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment at a frequency specified by the manufacturer, or at a frequency necessary to preclude accumulation of soil or mold.

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, and pay a civil penalty in the amount of one thousand, two hundred fifty dollars **(\$1,250.00)**.

135) Order Type and Number: Consent Order 2019-206-03-024
Order Date: May 6, 2019
Individual/Entity: **Quick Stop**
Facility: Quick Stop
Location: 448 West Church Street
Batesburg, SC 29006
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-05534
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Quick Stop (Individual/Entity) is a convenience store located in Batesburg, South Carolina. The Department conducted inspections on April 7, 2017, March 8, 2018, and February 26, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

136) Order Type and Number: Consent Order 2019-206-03-025
Order Date: May 6, 2019
Individual/Entity: **Marco's Pizza**
Facility: Marco's Pizza
Location: 851 Highway 378
Lexington, SC 20972
Mailing Address: PMB 354, Holly Street, Suite 3
Columbia, SC 29205
County: Lexington
Previous Orders: None
Permit Number: 32-206-06065
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Marco's Pizza (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted inspections on January 10, 2018, November 26, 2018, and January 31, 2019. The Individual/Entity has violated the South Carolina Retail Food

Establishment Regulation as follows: failed to ensure that equipment is maintained in a state of repair and condition that meets the regulation requirements.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

137) <u>Order Type and Number:</u>	Consent Order 2019-206-03-028
<u>Order Date:</u>	May 6, 2019
<u>Individual/Entity:</u>	Denny's
<u>Facility:</u>	Denny's
<u>Location:</u>	342 Harbison Boulevard Columbia, SC 29212
<u>Mailing Address:</u>	Same
<u>County:</u>	Lexington
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	32-206-03100
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Denny's (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on March 14, 2018, January 10, 2019, March 11, 2019, and March 19, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

138) <u>Order Type and Number:</u>	Consent Order 2019-206-03-032
<u>Order Date:</u>	May 6, 2019
<u>Individual/Entity:</u>	Hudson's Smokehouse BBQ
<u>Facility:</u>	Hudson's Smokehouse BBQ
<u>Location:</u>	4952 Sunset Boulevard Lexington, SC 29072
<u>Mailing Address:</u>	Same
<u>County:</u>	Lexington
<u>Previous Orders:</u>	2014-206-03-111 (\$500.00); 2018-206-03-088 (\$4,000.00)
<u>Permit Number:</u>	32-206-03120
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Hudson's Smokehouse BBQ (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted an inspection on March 26, 2018. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

139) Order Type and Number: Consent Order 2019-206-03-038
Order Date: May 6, 2019
Individual/Entity: **No. 1 China**
Facility: No. 1 China
Location: 2329 Augusta Road
West Columbia, SC 29169
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-02483
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: No. 1 China (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on August 14, 2017, June 4, 2018, and April 9, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to store foods in a manner to prevent cross contamination.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

140) Order Type and Number: Consent Order 2019-206-04-009
Order Date: May 6, 2019
Individual/Entity: **Bizzell's Food & Spirits**
Facility: Bizzell's Food & Spirits
Location: 137 East Carolina Avenue
Hartsville, SC 29550
Mailing Address: Same
County: Darlington
Previous Orders: None
Permit Number: 16-206-01582
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bizzell's Food & Spirits (Individual/Entity) is a restaurant located in Hartsville, South Carolina. The Department conducted inspections on October 26, 2017, July 3, 2018, and February 12, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

141) Order Type and Number: Consent Order 2019-206-04-013
Order Date: May 6, 2019
Individual/Entity: **Markette #13**
Facility: Markette #13
Location: 36 East Pine Street
McBee, SC 29101

Mailing Address: 312 Lakeview Boulevard
Hartsville, SC 29550
County: Chesterfield
Previous Orders: None
Permit Number: 13-206-01444
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Markette #13 (Individual/Entity) is a convenience store located in McBee, South Carolina. The Department conducted inspections on November 1, 2017, October 19, 2018, and March 14, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

142) Order Type and Number: Consent Order 2019-206-05-004
Order Date: May 6, 2019
Individual/Entity: **Dunkin Donuts**
Facility: Dunkin Donuts
Location: 1909-B Whiskey Road
Aiken, SC 29803
Mailing Address: Same
County: Aiken
Previous Orders: None
Permit Number: 02-206-02659
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Dunkin Donuts (Individual/Entity) is a restaurant located in Aiken, South Carolina. The Department conducted inspections on March 5, 2019, March 14, 2019, and March 20, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

143) Order Type and Number: Consent Order 2019-206-05-005
Order Date: May 6, 2019
Individual/Entity: **House of Chan**
Facility: House of Chan
Location: 205 ½ Edgefield Road
North Augusta, SC 29841
Mailing Address: Same
County: Aiken
Previous Orders: 2018-206-05-011 (\$800.00)
Permit Number: 02-206-02764
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: House of Chan (Individual/Entity) is a restaurant located in North Augusta, South Carolina. The Department conducted an inspection on March 26, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

144) Order Type and Number: Consent Order 2019-206-06-022
Order Date: May 6, 2019
Individual/Entity: **Circle K Store #3064**
Facility: Circle K Store #3064
Location: 3710 Highway 501
Myrtle Beach, SC 29579
Mailing Address: P.O. Box 8019
Cary, SC 27512
County: Horry
Previous Orders: None
Permit Number: 26-206-13008
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Circle K Store #3064 (Individual/Entity) is a convenience store located in Myrtle Beach, South Carolina. The Department conducted inspections on April 4, 2017, March 5, 2018, and January 29, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to provide individual disposable towels at each hand washing sink or group of adjacent handwashing sinks.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

145) Order Type and Number: Consent Order 2019-206-06-023
Order Date: May 6, 2019
Individual/Entity: **Circle K Store #1653**
Facility: Circle K Store #1653
Location: 1700 Church Street
Conway, SC 29526
Mailing Address: P.O. Box 8019
Cary, SC 27512
County: Horry
Previous Orders: None
Permit Number: 26-206-13003
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Circle K Store #1653 (Individual/Entity) is a convenience store located in Conway, South Carolina. The Department conducted inspections on June 9, 2017, April 19, 2018, and February 15, 2019. 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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

146) Order Type and Number: Consent Order 2019-206-06-026
Order Date: May 6, 2019
Individual/Entity: **Hungry Howies Pizza and Subs**
Facility: Hungry Howies Pizza and Subs
Location: 1601 South Kings Highway
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 2018-206-06-157 (\$800.00)
Permit Number: 26-206-09594
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hungry Howies Pizza and Subs (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on February 12, 2019. 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, and pay a civil penalty in the amount of seven hundred fifty dollars **(\$750.00)**.

147) Order Type and Number: Consent Order 2019-206-06-031
Order Date: May 6, 2019
Individual/Entity: **R'Way Pizza and Family Tavern**
Facility: R'Way Pizza and Family Tavern
Location: 13088 Ocean Highway, Unit 1
Pawleys Island, SC 29585
Mailing Address: 3745 Sweetgum Street
Myrtle Beach, SC 29577
County: Horry
Previous Orders: None
Permit Number: 22-206-06389
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: R'Way Pizza and Family Tavern (Individual/Entity) is a restaurant located in Pawleys Island, South Carolina. The Department conducted inspections on June 5, 2018, June 15, 2018, December 11, 2018, December 21, 2018, January 22, 2019, and February 12, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

148) Order Type and Number: Consent Order 2019-206-06-032
Order Date: May 6, 2019
Individual/Entity: **The Noizy Oyster**
Facility: The Noizy Oyster
Location: 101 South Kings Highway
Myrtle Beach, SC 29577
Mailing Address: P.O. Box 8036
Myrtle Beach, SC 29577
County: Horry
Previous Orders: 2018-206-06-120 (\$400.00)
Permit Number: 26-206-13169
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: The Noizy Oyster (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted an inspection on February 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to properly thaw 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, and pay a civil penalty in the amount of two hundred fifty dollars **(\$250.00)**.

149) Order Type and Number: Consent Order 2019-206-06-033
Order Date: May 6, 2019
Individual/Entity: **Nagoya Japanese Grill**
Facility: Nagoya Japanese Grill
Location: 1354 North Fraser Street
Georgetown, SC 29440
Mailing Address: Same
County: Georgetown
Previous Orders: None
Permit Number: 22-206-06299
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Nagoya Japanese Grill (Individual/Entity) is a restaurant located in Georgetown, South Carolina. The Department conducted inspections on February 5, 2018, August 20, 2018, and February 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

150) Order Type and Number: Consent Order 2019-206-06-039
Order Date: May 6, 2019
Individual/Entity: **China King Restaurant**
Facility: China King Restaurant
Location: 1011 Highway 501
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 2019-206-06-011 (\$200.00)
Permit Number: 26-206-12543
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China King Restaurant (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 20, 2018, January 17, 2019, and March 14, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

151) Order Type and Number: Consent Order 2019-206-06-040
Order Date: May 6, 2019
Individual/Entity: **Hong Kong**
Facility: Hong Kong
Location: 520 East Main Street
Kingstree, SC 29556
Mailing Address: Same
County: Williamsburg
Previous Orders: None
Permit Number: 45-206-00466
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hong Kong (Individual/Entity) is a restaurant located in Kingstree, South Carolina. The Department conducted inspections on July 18, 2018, February 21, 2019, and March 4, 2019. 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; failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded; 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

152) Order Type and Number: Consent Order 2019-206-06-045
Order Date: May 6, 2019
Individual/Entity: **Tiger Mart #17**
Facility: Tiger Mart #17
Location: 93 Highway 57

<u>Mailing Address:</u>	Little River, SC 29566 P.O. Box 308 Mullins, SC 29574
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	26-206-11494
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Tiger Mart #17 (Individual/Entity) is a convenience store located in Little River, South Carolina. The Department conducted inspections on March 6, 2018, March 13, 2019, and March 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

153) <u>Order Type and Number:</u>	Consent Order 2019-206-07-025
<u>Order Date:</u>	May 6, 2019
<u>Individual/Entity:</u>	Domino's Pizza #5658
<u>Facility:</u>	Domino's Pizza #5658
<u>Location:</u>	1039 Johnny Dodds Boulevard Mount Pleasant, SC 29464
<u>Mailing Address:</u>	1610 Sam Rittenberg Boulevard, Suite C Charleston, SC 29407
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	10-206-09371
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Domino's Pizza #5658 (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on June 28, 2018, July 5, 2018, January 16, 2019, January 23, 2019, January 28, 2019, February 6, 2019, and February 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests and failed to comply with the Hazard Analysis Critical Control Policy (HACCP) plan and procedures that are submitted and approved as a basis for the modification or waiver; and failed to 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, and pay a civil penalty in the amount of four thousand dollars **(\$4,000.00)**.

154) <u>Order Type and Number:</u>	Consent Order 2019-206-07-040
<u>Order Date:</u>	May 6, 2019
<u>Individual/Entity:</u>	Golden House
<u>Facility:</u>	Golden House
<u>Location:</u>	111 Foxbank Plantation Boulevard B

<u>Mailing Address:</u>	Moncks Corner, SC 29461
<u>County:</u>	Same
<u>Previous Orders:</u>	Berkeley
<u>Permit Number:</u>	2018-206-07-041 (\$200.00)
<u>Violations Cited:</u>	08-206-10786
	S.C. Code Ann. Regs. 61-25

Summary: Golden House (Individual/Entity) is a restaurant located in Moncks Corner, South Carolina. The Department conducted an inspection on April 9, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor.

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, and pay a civil penalty in the amount of two hundred fifty dollars **(\$250.00)**.

155) <u>Order Type and Number:</u>	Consent Order 2019-206-03-022
<u>Order Date:</u>	May 7, 2019
<u>Individual/Entity:</u>	Kroger #012 Deli
<u>Facility:</u>	Kroger #012 Deli
<u>Location:</u>	3403 Forest Drive Columbia, SC 29204
<u>Mailing Address:</u>	Same
<u>County:</u>	Richland
<u>Previous Orders:</u>	2015-206-03-094 (#14)
<u>Permit Number:</u>	40-206-01481
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Kroger #012 Deli (Individual/Entity) operates a deli located in Columbia, South Carolina. The Department conducted inspections on February 16, 2017, February 13, 2018, and February 4, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the temperature of the fresh hot water sanitizing rinse as it enters the manifold, may not be more than 194 degrees in a mechanical operation, or less than 165 degrees for a stationary rack, single temperature machine; or less than 180 degrees for all other machines.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

156) <u>Order Type and Number:</u>	Consent Order 2019-206-06-048
<u>Order Date:</u>	May 7, 2019
<u>Individual/Entity:</u>	Donald's Pancake House
<u>Facility:</u>	Donald's Pancake House
<u>Location:</u>	2600 North Kings Highway Myrtle Beach, SC 29577
<u>Mailing Address:</u>	Same
<u>County:</u>	Horry
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	26-206-11717

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: Donald's Pancake House (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on August 2, 2018, November 19, 2018, and April 2, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

157) Order Type and Number: Consent Order 2019-206-03-020
Order Date: May 9, 2019
Individual/Entity: **Zaxby's #3001**
Facility: Zaxby's #3001
Location: 821 Knox Abbott Drive
Cayce, SC 29033
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-02773
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Zaxby's #3001 (Individual/Entity) is a restaurant located in Cayce, South Carolina. The Department conducted inspections on August 13, 2018, December 14, 2018, and January 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

158) Order Type and Number: Consent Order 2019-206-07-029
Order Date: May 9, 2019
Individual/Entity: **New China East Inc.**
Facility: New China East Inc.
Location: 920 Houston Northcutt, A5
Mount Pleasant, SC 29464
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-08943
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: New China East Inc. (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 16, 2017, March 7, 2018, and March 6, 2019. 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 when time without

temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

159) Order Type and Number: Consent Order 2019-206-07-033
Order Date: May 9, 2019
Individual/Entity: **Canal Lakes Fish Camp**
Facility: Canal Lakes Fish Camp
Location: 139 Canal Landing Road
Cross, SC 29436
Mailing Address: 1235 Long Point Road
Cross, SC 29436
County: Berkeley
Previous Orders: None
Permit Number: 08-206-07030
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Canal Lakes Fish Camp (Individual/Entity) is a restaurant located in Cross, South Carolina. The Department conducted inspections on November 15, 2017, September 26, 2018, and April 3, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor and failed to ensure that during pauses in food preparation or dispensing, food preparation and dispensing utensils were stored in the food with their handles above the top of the food.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

160) Order Type and Number: Consent Order 2019-206-01-013
Order Date: May 16, 2019
Individual/Entity: **Shreeji Hotel Group, LLC D/B/A Red Roof Inn**
Facility: Red Roof Inn
Location: 3025 North Main Street
Anderson, SC 29621
Mailing Address: Same
County: Anderson
Previous Orders: 2017-206-01-028 (\$1,600.00);
2018-206-01-031 (\$1,000.00)
Permit Number: N/A
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Red Roof Inn (Individual/Entity) operates a retail food establishment located in Anderson, South Carolina. The Department conducted an inspection on March 5, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment

Regulation as follows: provided food to the public without a valid permit issued by the Department.

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, and pay a civil penalty in the amount of fourteen thousand, five hundred dollars **(\$14,500.00)**.

161) Order Type and Number: Consent Order 2019-206-02-017
Order Date: May 16, 2019
Individual/Entity: **Larkin's on the River**
Facility: Larkin's on the River
Location: 318 South Main Street
Greenville, SC 29601
Mailing Address: 156 Water's Edge Court
Lake Lure, NC 28746
County: Greenville
Previous Orders: 2015-206-02-039 (\$1,200.00);
2018-206-02-046 (\$800.00)
Permit Number: 23-206-08759
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Larkin's on the River (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on February 6, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

162) Order Type and Number: Consent Order 2019-206-03-040
Order Date: May 16, 2019
Individual/Entity: **Eastover Express**
Facility: Eastover Express
Location: 625 Spears Creek Church Road
Elgin, SC 29045
Mailing Address: Same
County: Richland
Previous Orders: Order of Suspension
Permit Number: 40-206-07433
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Eastover Express (Individual/Entity) is a restaurant located in Elgin, South Carolina. The Department conducted inspections on October 27, 2017, October 25, 2018, November 2, 2018, November 9, 2018, December 21, 2018, December 27, 2018, January 4, 2019, and April 3, 2019. 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; failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for

Food Protection; failed to provide water at a temperature of at least 100°F through a mixing valve or combination faucet at the handwashing sink(s); and failed to ensure that refuse, recyclables, and returnables were stored in receptacles or waste handling units so that they were inaccessible to insects and rodents.

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, and pay a civil penalty in the amount of two thousand five hundred dollars **(\$2,500.00)**.

163) Order Type and Number: Consent Order 2019-206-04-014
Order Date: May 16, 2019
Individual/Entity: **McDonald's #30840**
Facility: McDonald's #30840
Location: 230 North Beltline Drive
Florence, SC 29501
Mailing Address: 1937 West Palmetto Street
Florence, SC 29501
County: Florence
Previous Orders: None
Permit Number: 21-206-02674
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: McDonald's #30840 (Individual/Entity) is a restaurant located in Florence, South Carolina. The Department conducted inspections on March 29, 2018, February 28, 2019, and March 7, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: 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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

164) Order Type and Number: Consent Order 2019-206-04-015
Order Date: May 16, 2019
Individual/Entity: **Popeyes Louisiana Kitchen**
Facility: Popeyes Louisiana Kitchen
Location: 710 Radford Boulevard
Dillon, SC 29536
Mailing Address: 4140 Ferncreek Drive, Suite 704
Fayetteville, NC 28314
County: Dillon
Previous Orders: None
Permit Number: 17-206-01010
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Popeyes Louisiana Kitchen (Individual/Entity) is a restaurant located in Dillon, South Carolina. The Department conducted inspections on January 19, 2018, November 6, 2018, February 21, 2019, and March 1, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor.

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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

165) Order Type and Number: Consent Order 2019-206-05-003
Order Date: May 16, 2019
Individual/Entity: **Buckhead Café**
Facility: Buckhead Café
Location: 19073 Atomic Road
Jackson, SC 29831
Mailing Address: Same
County: Aiken
Previous Orders: None
Permit Number: 02-206-03195
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Buckhead Cafe (Individual/Entity) is a restaurant located in Jackson, South Carolina. The Department conducted inspections on October 8, 2018, March 7, 2019, and March 14, 2019. 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, and pay a civil penalty in the amount of six hundred twenty dollars **(\$620.00)**.

166) Order Type and Number: Consent Order 2019-206-06-046
Order Date: May 16, 2019
Individual/Entity: **Beachwood Golf Corp.**
Facility: Beachwood Golf Corp.
Location: 1520 Highway 17 South
North Myrtle Beach, SC 29582
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-13032
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Beachwood Golf Corp. (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on July 18, 2017, May 7, 2018, and March 15, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to remove dead or trapped birds, insects, rodents, and other pests from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

167) Order Type and Number: Consent Order 2019-208-07-001
Order Date: May 16, 2019
Individual/Entity: **Francis Lieber Correctional Institution**
Facility: Francis Lieber Correctional Institution
Location: 136 Wilborn Drive
Ridgeville, SC 29472
Mailing Address: Same
County: Dorchester
Previous Orders: None
Permit Number: 18-208-00313
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Francis Lieber Correctional Institution (Individual/Entity) operates a cafeteria located in Ridgeville, South Carolina. The Department conducted inspections on June 27, 2017, May 24, 2018, and March 26, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

168) Order Type and Number: Consent Order 2019-206-01-008
Order Date: May 17, 2019
Individual/Entity: **J Peters Grill & Bar**
Facility: J Peters Grill & Bar
Location: 115 Interstate Boulevard
Anderson, SC 29621
Mailing Address: 523 North Main Street
Anderson, SC 29621
County: Anderson
Previous Orders: 2018-206-01-015 (\$800.00)
Permit Number: 04-206-04318
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: J Peters Grill & Bar (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted an inspection on February 13, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

169) Order Type and Number: Consent Order 2019-206-05-007
Order Date: May 17, 2019
Individual/Entity: **Zaxby's #B1**
Facility: Zaxby's #B1
Location: 130 University Parkway

Mailing Address: Aiken, SC 29801
1040 Founders Boulevard, Suite 200
Athens, GA 30606
County: Aiken
Previous Orders: None
Permit Number: 02-206-02892
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Zaxby's #B1 (Individual/Entity) is a restaurant located in Aiken, South Carolina. The Department conducted inspections on August 14, 2018, March 13, 2019, March 21, 2019, and March 29, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

170) Order Type and Number: Consent Order 2019-206-06-038
Order Date: May 17, 2019
Individual/Entity: **Bombay at the Beach**
Facility: Bombay at the Beach
Location: 702 North Kings Highway
Myrtle Beach, SC 29577
Mailing Address: Same
County: Horry
Previous Orders: 2018-206-06-123 (\$200.00);
2018-206-06-159 (\$200.00)
Permit Number: 26-206-13564
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bombay at the Beach (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on July 31, 2018, November 13, 2018, and March 22, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

171) Order Type and Number: Consent Order 2019-206-06-049
Order Date: May 17, 2019
Individual/Entity: **Driftwoods Seafood & Steak**
Facility: Driftwoods Seafood & Steak
Location: 10799 Highway 707, Unit 15
Murrells Inlet, SC 29576
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-10486

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: Driftwoods Seafood & Steak (Individual/Entity) is a restaurant located in Murrells Inlet, South Carolina. The Department conducted inspections on February 8, 2018, July 9, 2018, and April 2, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

172) Order Type and Number: Consent Order 2019-206-06-052
Order Date: May 17, 2019
Individual/Entity: **Castaway**
Facility: Castaway
Location: 1717 South Ocean Boulevard
North Myrtle Beach, SC 29582
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-206-13268
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Castaway (Individual/Entity) is a restaurant located in North Myrtle Beach, South Carolina. The Department conducted inspections on October 5, 2017, June 1, 2018, and April 4, 2019. 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, and pay a civil penalty in the amount of five hundred fifty dollars **(\$550.00)**.

173) Order Type and Number: Consent Order 2019-206-04-010
Order Date: May 20, 2019
Individual/Entity: **One Stop Country Store & Grill**
Facility: One Stop Country Store & Grill
Location: 916 Highway 38 South
Bennettsville, SC 29512
Mailing Address: Same
County: Marlboro
Previous Orders: None
Permit Number: 34-206-00644
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: One Stop Country Store & Grill (Individual/Entity) is a restaurant located in Bennettsville, South Carolina. The Department conducted inspections on August 13, 2018, February 5, 2019, and February 15, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time

without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

174) Order Type and Number: Consent Order 2019-206-04-017
Order Date: May 20, 2019
Individual/Entity: **Bruce Darnell Hampton**
Facility: Bruce Darnell Hampton
Location: 6330 Skinner Road
Gable, SC 29051
Mailing Address: Same
County: Sumter
Previous Orders: None
Permit Number: N/A
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Bruce Darnell Hampton (Individual/Entity), operates a restaurant located in Gable, South Carolina. The Department conducted inspections on July 27, 2018, and March 21, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: provided food to the public without a valid permit issued by the Department.

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, and pay a civil penalty in the amount of two thousand dollars **(\$2,000.00)**.

175) Order Type and Number: Consent Order 2019-211-06-001
Order Date: May 20, 2019
Individual/Entity: **Mi Mexico**
Facility: Mi Mexico
Location: 3839 Socastee Boulevard, Unit C
Myrtle Beach, SC 29588
Mailing Address: Same
County: Horry
Previous Orders: None
Permit Number: 26-211-10465
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Mi Mexico (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on October 25, 2018, February 15, 2019, February 16, 2019, February 26, 2019, and February 28, 2019. 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 and failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of one thousand, two hundred dollars **(\$1,200.00)**.

176) Order Type and Number: Consent Order 2019-206-06-050
Order Date: May 20, 2019
Individual/Entity: **Little Caesars**
Facility: Little Caesars
Location: 4684 Socastee Boulevard
Myrtle Beach, SC 29588
Mailing Address: P.O. Box 39/418 Peanut Plant Road
Elizabethtown, NC 28337
County: Horry
Previous Orders: None
Permit Number: 26-206-13458
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Little Caesars (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on June 15, 2017, May 14, 2018, and March 20, 2019. 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.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

177) Order Type and Number: Consent Order 2019-206-02-029
Order Date: May 21, 2019
Individual/Entity: **Project Host**
Facility: Project Host
Location: 525 South Academy Street
Greenville, SC 29602
Mailing Address: P.O. Box 345
Greenville, SC 29602
County: Greenville
Previous Orders: 2018-206-02-020 (\$800.00);
2018-206-02-041 (\$1,000.00)
Permit Number: 23-206-05927
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Project Host (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on April 11, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

178) Order Type and Number: Consent Order 2019-206-02-013
Order Date: May 22, 2019
Individual/Entity: **Green Lettuce**
Facility: Green Lettuce

Location: 19 Augusta Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: 2017-206-02-015 (\$800.00);
2018-206-02-017 (\$1,000.00)
Permit Number: 23-206-10621
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Green Lettuce (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on January 10, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

179) Order Type and Number: Consent Order 2019-206-02-027
Order Date: May 22, 2019
Individual/Entity: **Grill Marks**
Facility: Grill Marks
Location: 209 South Main Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: 2016-206-02-037 (\$800.00);
2016-206-02-019 (\$800.00);
2018-206-02-042 (\$1,600.00)
Permit Number: 23-206-10591
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Grill Marks (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on March 25, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

180) Order Type and Number: Consent Order 2019-206-03-037
Order Date: May 22, 2019
Individual/Entity: **Nicks Gyros & Grill 2**
Facility: Nicks Gyros & Grill 2
Location: 780 Saint Andrews Road
Columbia, SC 29210
Mailing Address: Same
County: Lexington
Previous Orders: 2018-206-03-172 (\$1,000.00)

Permit Number: 32-206-06062
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Nicks Gyros & Grill 2 (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on November 8, 2018, November 15, 2018, and March 29, 2019. 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.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

181) Order Type and Number: Consent Order 2019-206-01-021
Order Date: May 23, 2019
Individual/Entity: **Chili's Grill & Bar #557**
Facility: Chili's Grill & Bar #557
Location: 3803 Clemson Boulevard
Anderson, SC 29621
Mailing Address: 3820 LBJ Freeway
Dallas, TX 75201
County: Anderson
Previous Orders: 2018-206-01-020 (\$800.00)
Permit Number: 04-206-03508
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Chili's Grill & Bar #557 (Individual/Entity) is a restaurant located in Anderson, South Carolina. The Department conducted inspections on June 26, 2017, April 17, 2018, and March 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that after cleaning and sanitizing, equipment and utensils were properly air-dried before contact with food; and may not be cloth dried.

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, and pay a civil penalty in the amount of two hundred fifty dollars **(\$250.00)**.

182) Order Type and Number: Consent Order 2019-204-03-001
Order Date: May 23, 2019
Individual/Entity: **Size Matters BBQ**
Facility: Size Matters BBQ
Location: 612 Whaley Street
Columbia, SC 29201
Mailing Address: 303 Barony Place Drive
Columbia, SC 29229
County: Richland
Previous Orders: None
Permit Number: 40-204-07195
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Size Matters BBQ (Individual/Entity) is a mobile food unit located in Columbia, South Carolina. The Department conducted inspections on March 29, 2017, February 24, 2018, July 14, 2018, July 21, 2018, and November 10, 2018. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for Food Protection.

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, and pay a civil penalty in the amount of seven hundred fifty dollars **(\$750.00)**.

183) Order Type and Number: Consent Order 2019-206-02-026
Order Date: June 3, 2019
Individual/Entity: **Blockhouse Restaurant**
Facility: Blockhouse Restaurant
Location: 1619 Augusta Street
Greenville, SC 29601
Mailing Address: Same
County: Greenville
Previous Orders: 2017-206-02-003 (\$800.00);
2017-206-02-025 (\$750.00);
2018-206-02-031 (\$2,000.00)
Permit Number: 23-206-03818
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Blockhouse Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on March 12, 2019. 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, and pay a civil penalty in the amount of seven hundred fifty dollars **(\$750.00)**.

184) Order Type and Number: Consent Order 2019-206-03-014
Order Date: June 3, 2019
Individual/Entity: **Blythewood IGA Deli #35**
Facility: Blythewood IGA Deli #35
Location: 135 Blythewood Road
Blythewood, SC 29016
Mailing Address: P.O. Box 1629
Lake City, SC 29560
County: Richland
Previous Orders: None
Permit Number: 40-206-04404
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Blythewood IGA Deli #35 (Individual/Entity) operates a deli located in Blythewood, South Carolina. The Department conducted inspections on April 24, 2017, February 13, 2018, and February 7, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

185) Order Type and Number: Consent Order 2019-206-03-033
Order Date: June 3, 2019
Individual/Entity: **Tony's Pizza**
Facility: Tony's Pizza
Location: 975 Knox Abbott Drive
Cayce, SC 29033
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-05728
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tony's Pizza (Individual/Entity) is a restaurant located in Cayce, South Carolina. The Department conducted inspections on March 6, 2018, March 4, 2019, and March 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

186) Order Type and Number: Consent Order 2019-206-03-034
Order Date: June 3, 2019
Individual/Entity: **El Jimador**
Facility: El Jimador
Location: 108-J Scarborough Drive
Lexington, SC 29072
Mailing Address: Same
County: Lexington
Previous Orders: 2018-206-03-040 (\$800.00)
Permit Number: 32-206-06481
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: El Jimador (Individual/Entity) is a restaurant located in Lexington, South Carolina. The Department conducted an inspection on March 29, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

187) Order Type and Number: Consent Order 2019-206-03-039
Order Date: June 3, 2019
Individual/Entity: **Shalimar Curry House**
Facility: Shalimar Curry House
Location: 631 Main Street
Columbia, SC 29201
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-07153
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Shalimar Curry House (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on April 5, 2017, March 29, 2018, and March 26, 2019. 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; failed to ensure that when time without temperature control is used as a public health control; the food in unmarked containers or packages shall be discarded; and failed to provide water at a temperature of at least 100°F through a mixing valve or combination faucet at the handwashing sink(s).

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

188) Order Type and Number: Consent Order 2019-206-03-041
Order Date: June 3, 2019
Individual/Entity: **Fuddruckers**
Facility: Fuddruckers
Location: 1801 Bush River Road
Columbia, SC 29210
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-00471
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Fuddruckers (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on December 28, 2018, January 7, 2019, and April 16, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

189) Order Type and Number: Consent Order 2019-206-03-042
Order Date: June 3, 2019
Individual/Entity: **Mai Thai Cuisine**
Facility: Mai Thai Cuisine

<u>Location:</u>	2249 Sunset Boulevard West Columbia, SC 29169
<u>Mailing Address:</u>	Same
<u>County:</u>	Lexington
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	32-206-05396
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Mai Thai Cuisine (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on March 30, 2017, April 3, 2017, March 28, 2018, and March 26, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

190) <u>Order Type and Number:</u>	Consent Order 2019-206-03-047
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	Blythewood IGA Deli #35
<u>Facility:</u>	Blythewood IGA Deli #35
<u>Location:</u>	135 Blythewood Road Blythewood, SC 29016
<u>Mailing Address:</u>	P.O. Box 1629 Lake City, SC 29560
<u>County:</u>	Richland
<u>Previous Orders:</u>	2019-206-03-014 (\$800.00)
<u>Permit Number:</u>	40-206-04404
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Blythewood IGA Deli #35 (Individual/Entity) operates a deli located in Blythewood, South Carolina. The Department conducted an inspection on April 29, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

191) <u>Order Type and Number:</u>	Consent Order 2019-206-06-031
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	King's Pizza
<u>Facility:</u>	King's Pizza
<u>Location:</u>	3786 Ladson Road, #201 Ladson, SC 29456
<u>Mailing Address:</u>	Same
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	10-206-07233

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: King's Pizza (Individual/Entity) is a restaurant located in Ladson, South Carolina. The Department conducted inspections on March 13, 2017, February 28, 2018, March 8, 2018, March 19, 2018, and February 12, 2019. 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; failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded; and failed to provide equipment sufficient in number and capacity to maintain food temperatures for cooling and heating food and holding cold and hot food.

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, and pay a civil penalty in the amount of two thousand, three hundred fifty dollars **(\$2,350.00)**.

192) <u>Order Type and Number:</u>	Consent Order 2019-206-06-042
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	Comfort Suites
<u>Facility:</u>	Comfort Suites
<u>Location:</u>	2450 Highway 501 East Conway, SC 29526
<u>Mailing Address:</u>	Same
<u>County:</u>	Horry
<u>Previous Orders:</u>	2018-206-06-055 (\$400.00)
<u>Permit Number:</u>	26-206-10400
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Comfort Suites (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted an inspection on March 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate; failed to provide a receptacle in each area of the retail food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed; and failed to provide a waste receptacle for disposal towels used at handwashing lavatories, at each lavatory or group of adjacent lavatories.

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, and pay a civil penalty in the amount of two hundred fifty dollars **(\$250.00)**.

193) <u>Order Type and Number:</u>	Consent Order 2019-206-06-047
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	Bagel Factory III
<u>Facility:</u>	Bagel Factory III
<u>Location:</u>	1620 Farrow Parkway, Unit A7 Myrtle Beach, SC 29577
<u>Mailing Address:</u>	2012 North Kings Highway Myrtle Beach, SC 29577

<u>County:</u>	Horry
<u>Previous Orders:</u>	2018-206-06-145 (\$400.00)
<u>Permit Number:</u>	26-206-13436
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Bagel Factory III (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on October 24, 2018, April 4, 2019, and April 10, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

194) <u>Order Type and Number:</u>	Consent Order 2019-206-07-036
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	Cracker Barrel #678
<u>Facility:</u>	Cracker Barrel #678
<u>Location:</u>	1370 North Main Street Summerville, SC 29483
<u>Mailing Address:</u>	311 Hartmann Drive Lebanon, TN 37088
<u>County:</u>	Berkeley
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	08-206-07587
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Cracker Barrel #678 (Individual/Entity) is a restaurant located in Summerville, South Carolina. The Department conducted inspections on May 5, 2017, April 10, 2018, and April 2, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that after cleaning and sanitizing, equipment and utensils were properly air-dried before contact with food; and may not be cloth dried.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

195) <u>Order Type and Number:</u>	Consent Order 2019-206-07-037
<u>Order Date:</u>	June 3, 2019
<u>Individual/Entity:</u>	Sticky Fingers Restaurant
<u>Facility:</u>	Sticky Fingers Restaurant
<u>Location:</u>	235 Meeting Street Charleston, SC 29401
<u>Mailing Address:</u>	311 Johnnie Dodds Boulevard, Suite 131 Mount Pleasant, SC 29464
<u>County:</u>	Charleston
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	10-206-08205

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: Sticky Fingers Restaurant (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on March 21, 2017, March 13, 2018, March 11, 2019, March 13, 2019, and April 1, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests; failed to maintain the physical facilities in good repair; and failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of one thousand, two hundred dollars **(\$1,200.00)**.

196) Order Type and Number: Consent Order 2019-206-03-043
Order Date: June 7, 2019
Individual/Entity: **Kikis Chicken and Waffles**
Facility: Kikis Chicken and Waffles
Location: 7001 Parklane Road
Columbia, SC 29223
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: 40-206-07726
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Kikis Chicken and Waffles (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on May 15, 2017, May 14, 2018, and April 29, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: 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, and pay a civil penalty in the amount of four hundred dollars **(\$400.00)**.

197) Order Type and Number: Consent Order 2019-206-05-006
Order Date: June 7, 2019
Individual/Entity: **Subway**
Facility: Subway
Location: 720 Silver Bluff Road
Aiken, SC 29803
Mailing Address: 1242 Willow Woods Drive
Aiken, SC 29803
County: Aiken
Previous Orders: None
Permit Number: 02-206-01846
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Subway (Individual/Entity) is a restaurant located in Aiken, South Carolina. The Department conducted inspections on February 19, 2019, February 28, 2019, March 6,

2019, March 14, 2019, and March 20, 2019. 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, and pay a civil penalty in the amount of two thousand, four hundred dollars **(\$2,400.00)**.

198) Order Type and Number: Consent Order 2019-206-07-026
Order Date: June 7, 2019
Individual/Entity: **Shem Creek Bar & Grill**
Facility: Shem Creek Bar & Grill
Location: 508 Mill Street
Mount Pleasant, SC 29464
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-06490
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Shem Creek Bar & Grill (Individual/Entity) is a restaurant located in Mount Pleasant, South Carolina. The Department conducted inspections on January 9, 2018, January 12, 2018, March 6, 2018, March 5, 2019, and March 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep shellstock tags or labels attached to the container in which the shellstock are received, until the container is empty and failed to properly 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, and pay a civil penalty in the amount of two thousand dollars **(\$2,000.00)**.

199) Order Type and Number: Consent Order 2019-206-07-034
Order Date: June 7, 2019
Individual/Entity: **Hardee's #1070**
Facility: Hardee's #1070
Location: 209 Spring Street
Charleston, SC 29403
Mailing Address: 5305 Spine Road, Suite A
Boulder, CO 80301
County: Charleston
Previous Orders: None
Permit Number: 10-206-09421
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Hardee's #1070 (Individual/Entity) is a restaurant located in Charleston, South Carolina. The Department conducted inspections on August 3, 2017, August 2, 2018, and April 4, 2019. 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.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

200) Order Type and Number: Consent Order 2019-211-07-003
Order Date: June 10, 2019
Individual/Entity: **Charlie Brown Seafood**
Facility: Charlie Brown Seafood
Location: 4726 Rivers Avenue
North Charleston, SC 29405
Mailing Address: Same
County: Charleston
Previous Orders: 2019-211-07-001 (\$800.00)
Permit Number: 10-211-03792
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Charlie Brown Seafood (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted an inspection on April 8, 2019. 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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

201) Order Type and Number: Consent Order 2019-206-02-031
Order Date: June 14, 2019
Individual/Entity: **Crepe Du Jour**
Facility: Crepe Du Jour
Location: 20 South Main Street
Greenville, SC 29601
Mailing Address: 12321 Toscana Way, Apartment 207
Charlotte, NC 28273
County: Greenville
Previous Orders: None
Permit Number: 23-206-11736
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Crepe Du Jour (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on October 24, 2017, July 11, 2018, and March 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

202) Order Type and Number: Consent Order 2019-206-06-041
Order Date: June 14, 2019
Individual/Entity: **Burger King #7825**
Facility: Burger King #7825
Location: 1646 Church Street
Conway, SC 29526
Mailing Address: 3645 Marketplace Boulevard, Suite 130-297
East Point, GA 30344
County: Horry
Previous Orders: None
Permit Number: 26-206-11548
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Burger King #7825 (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted inspections on May 30, 2017, May 1, 2018, and March 18, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris and failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

203) Order Type and Number: Consent Order 2019-206-07-031
Order Date: June 14, 2019
Individual/Entity: **Southern Roots**
Facility: Southern Roots
Location: 1083 East Montague Avenue
North Charleston, SC 29405
Mailing Address: Same
County: Charleston
Previous Orders: None
Permit Number: 10-206-10636
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Southern Roots (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on March 6, 2018, March 5, 2019, March 12, 2019, March 20, 2019, and March 26, 2019. 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; failed to use effective methods to cool cooked time/temperature control for safety foods; and failed to maintain the physical facilities in good repair.

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, and pay a civil penalty in the amount of one thousand; six hundred dollars **(\$1,600.00)**.

204) Order Type and Number: Consent Order 2019-206-02-019
Order Date: June 17, 2019
Individual/Entity: **Golden Brown & Delicious**
Facility: Golden Brown & Delicious
Location: 1267 Pendleton Street
Greenville, SC 29611
Mailing Address: 702 Knollwood Drive
Greenville, SC 29607
County: Greenville
Previous Orders: None
Permit Number: 23-206-11461
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Golden Brown & Delicious (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on August 17, 2017, May 23, 2018, and February 13, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

205) Order Type and Number: Consent Order 2019-206-02-033
Order Date: June 17, 2019
Individual/Entity: **Swad Restaurant**
Facility: Swad Restaurant
Location: 1421-A Laurens Road
Greenville, SC 29607
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-06287
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Swad Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted inspections on October 24, 2016, July 12, 2017, July 21, 2017, June 7, 2018, and May 2, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of two thousand, four hundred dollars **(\$2,400.00)**.

206) Order Type and Number: Consent Order 2019-206-02-035
Order Date: June 17, 2019
Individual/Entity: **Corona's Mexican Restaurant**
Facility: Corona's Mexican Restaurant
Location: 2002 Augusta Street
Greenville, SC 29605
Mailing Address: Same
County: Greenville
Previous Orders: 2016-206-02-017 (\$800.00);
2018-206-02-060 (\$800.00)
Permit Number: 23-206-11043
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Corona's Mexican Restaurant (Individual/Entity) is a restaurant located in Greenville, South Carolina. The Department conducted an inspection on May 7, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

207) Order Type and Number: Consent Order 2019-206-02-036
Order Date: June 17, 2019
Individual/Entity: **Lin's Asian Café #2**
Facility: Lin's Asian Café #2
Location: 2603 Woodruff Road, Suite B
Simpsonville, SC 29681
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit Number: 23-206-11671
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Lin's Asian Café #2 (Individual/Entity) is a restaurant located in Simpsonville, South Carolina. The Department conducted inspections on July 26, 2017, May 8, 2018, May 7, 2019, and May 16, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded and 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

208) Order Type and Number: Consent Order 2019-206-06-055
Order Date: June 17, 2019
Individual/Entity: **McDonalds Surfside #38987**
Facility: McDonald's Surfside #38987

Location: 5900 South Kings Highway
Myrtle Beach, SC 29575
Mailing Address: 171 McDonald's Court
Myrtle Beach, SC 29575
County: Horry
Previous Orders: None
Permit Number: 26-206-13835
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: McDonald's Surfside #38987 (Individual/Entity) is a restaurant located in Myrtle Beach, South Carolina. The Department conducted inspections on March 21, 2019, April 8, 2019, April 17, 2019, and April 22, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

209) Order Type and Number: Consent Order 2019-206-07-051
Order Date: June 17, 2019
Individual/Entity: **No. 1 Kitchen**
Facility: No. 1 Kitchen
Location: 608 North Highway 52
Moncks Corner, SC 29461
Mailing Address: Same
County: Berkeley
Previous Orders: None
Permit Number: 08-206-08290
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: No. 1 Kitchen (Individual/Entity) is a restaurant located in Moncks Corner, South Carolina. The Department conducted inspections on August 16, 2017, June 14, 2018, and April 30, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to protect food from contamination by storing in a clean, dry location, where it is not exposed to splash, dust, or other contamination, at least 6 inches above the floor.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

210) Order Type and Number: Consent Order 2019-206-07-052
Order Date: June 17, 2019
Individual/Entity: **McDonald's #16540**
Facility: McDonald's #16540
Location: 7400 Rivers Avenue
North Charleston, SC 29406
Mailing Address: 8584 Rivers Avenue, Suite 103
North Charleston, SC 29406
County: Charleston

Previous Orders: 2018-206-07-040 (\$1,600.00)
Permit Number: 10-206-07306
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: McDonald's #16540 (Individual/Entity) is a restaurant located in North Charleston, South Carolina. The Department conducted inspections on November 2, 2017, June 19, 2018, June 29, 2018, May 9, 2019, May 15, 2019, May 22, 2019, May 23, 2019, and May 30, 2019. 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; failed to clean the physical facilities as often as necessary to keep them clean; and failed to maintain the premises free of insects, rodents, and other pests.

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, and pay a civil penalty in the amount of three thousand, two hundred fifty dollars **(\$3,250.00)**.

211) Order Type and Number: Consent Order 2019-206-01-028
Order Date: June 18, 2019
Individual/Entity: **Wendy's #30**
Facility: Wendy's #30
Location: 12424 Highway 56 North
Clinton, SC 29325
Mailing Address: 166 Southgate Drive #10
Boone, NC 28607
County: Laurens
Previous Orders: None
Permit Number: 30-206-00829
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Wendy's #30 (Individual/Entity) is a restaurant located in Clinton, South Carolina. The Department conducted inspections on April 3, 2018, April 12, 2018, and March 27, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

212) Order Type and Number: Consent Order 2019-206-03-053
Order Date: June 18, 2019
Individual/Entity: **Grecian Gardens**
Facility: Grecian Gardens
Location: 2312 Sunset Boulevard
West Columbia, SC 29169
Mailing Address: Same
County: Lexington
Previous Orders: None
Permit Number: 32-206-00028

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: Grecian Gardens (Individual/Entity) is a restaurant located in West Columbia, South Carolina. The Department conducted inspections on June 6, 2017, May 17, 2018, and May 14, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

213) Order Type and Number: Consent Order 2019-206-03-036
Order Date: June 24, 2019
Individual/Entity: **Tienda Y Taqueria 2 Amigos**
Facility: Tienda Y Taqueria 2 Amigos
Location: 5079 Platt Springs Road
Lexington, SC 29073
Mailing Address: 109 Kensington Court
West Columbia, SC 29170
County: Lexington
Previous Orders: None
Permit Number: 32-206-06478
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Tienda Y Taqueria 2 Amigos (Individual/Entity) is a restaurant located in Leesville, South Carolina. The Department conducted inspections on March 27, 2017, March 14, 2018, April 26, 2018, March 14, 2019, March 22, 2019, and April 1, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that a person in charge is certified by a food protection manager certification program that is recognized by the Conference for Food Protection and failed to convey sewage to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

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, and pay a civil penalty in the amount of one thousand, four hundred dollars **(\$1,400.00)**.

214) Order Type and Number: Consent Order 2019-206-03-044
Order Date: June 24, 2019
Individual/Entity: **San Jose**
Facility: San Jose
Location: 410 East Columbia Avenue
Leesville, SC 29070
Mailing Address: Same
County: Lexington
Previous Orders: 2018-206-03-025 (\$800.00);
2018-206-03-052 (\$1,250.00)
Permit Number: 32-206-06096

Violations Cited:

S.C. Code Ann. Regs. 61-25

Summary: San Jose (Individual/Entity) is a restaurant located in Leesville, South Carolina. The Department conducted inspections on March 6, 2018, May 4, 2018, and April 16, 2019. 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; failed to ensure that the handwashing sinks were accessible at all times; and failed to ensure employees wash hands after engaging in activities that contaminate their hands.

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, and pay a civil penalty in the amount of one thousand, two hundred fifty dollars **(\$1,250.00)**.

215) Order Type and Number: Consent Order 2019-206-03-045
Order Date: June 24, 2019
Individual/Entity: **China Garden**
Facility: China Garden
Location: 7120 Parklane Road
Columbia, SC 29223
Mailing Address: Same
County: Richland
Previous Orders: 2014-206-03-108 (\$750.00);
2017-206-02-089 (\$800.00)
Permit Number: 40-206-06318
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Garden (Individual/Entity) is a restaurant located in Columbia, South Carolina. The Department conducted inspections on October 31, 2017, October 30, 2018, and May 6, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

216) Order Type and Number: Consent Order 2019-206-06-044
Order Date: June 24, 2019
Individual/Entity: **Jade Hibachi**
Facility: Jade Hibachi
Location: 201 Graduate Road
Conway, SC 29526
Mailing Address: 104 Jessica Lakes Drive
Conway, SC 29526
County: Horry
Previous Orders: 2016-206-06-131 (\$1,200.00);
2018-206-06-125 (\$2,000.00)
Permit Number: 26-206-10472
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Jade Hibachi (Individual/Entity) is a restaurant located in Conway, South Carolina. The Department conducted an inspection on March 28, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded; failed to keep food contact surfaces, nonfood contact surfaces, and utensils clean and free of accumulation of dust, dirt, food residue, and other debris; and failed to clean the physical facilities as often as necessary to keep them clean.

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, and pay a civil penalty in the amount of one thousand, two hundred fifty dollars **(\$1,250.00)**.

217) Order Type and Number: Consent Order 2019-206-06-056
Order Date: June 24, 2019
Individual/Entity: **Lowes Foods Deli #259**
Facility: Lowes Foods Deli #259
Location: 9160 Ocean Highway
Pawleys Island, SC 29585
Mailing Address: P.O. Box 24908
Winston Salem, NC 27114
County: Georgetown
Previous Orders: None
Permit Number: 22-206-06260
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: Lowes Foods Deli #259 (Individual/Entity) operates a deli located in Pawleys Island, South Carolina. The Department conducted inspections on March 1, 2018, August 6, 2018, and April 26, 2019. 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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

218) Order Type and Number: Consent Order 2019-206-07-044
Order Date: June 24, 2019
Individual/Entity: **China Town**
Facility: China Town
Location: 1206 North Main Street
Summerville, SC 29483
Mailing Address: Same
County: Berkeley
Previous Orders: None
Permit Number: 08-206-05854
Violations Cited: S.C. Code Ann. Regs. 61-25

Summary: China Town (Individual/Entity) is a restaurant located in Summerville, South Carolina. The Department conducted inspections on April 17, 2017, April 17, 2018, and April 15, 2019. 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 when time without temperature control is used as a public health control, the food in unmarked containers or packages shall be discarded.

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, and pay a civil penalty in the amount of eight hundred dollars **(\$800.00)**.

219)	<u>Order Type and Number:</u>	Consent Order 2019-206-07-048
	<u>Order Date:</u>	June 24, 2019
	<u>Individual/Entity:</u>	Golden China
	<u>Facility:</u>	Golden China
	<u>Location:</u>	208B St. James Avenue Goose Creek, SC 29445
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Berkeley
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	08-206-05132
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Golden China (Individual/Entity) is a restaurant located in Goose Creek, South Carolina. The Department conducted inspections on March 1, 2018, August 15, 2018, and April 24, 2019. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to store foods in a manner to prevent cross contamination.

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, and pay a civil penalty in the amount of two hundred dollars **(\$200.00)**.

220)	<u>Order Type and Number:</u>	Consent Order 2019-208-05-001
	<u>Order Date:</u>	June 24, 2019
	<u>Individual/Entity:</u>	Marshall Elementary School
	<u>Facility:</u>	Marshall Elementary School
	<u>Location:</u>	1440 Marshall Avenue Orangeburg, SC 29115
	<u>Mailing Address:</u>	578 Ellis Avenue Orangeburg, SC 29115
	<u>County:</u>	Orangeburg
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	38-208-00153
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-25

Summary: Marshall Elementary School (Individual/Entity) operates a cafeteria located in Orangeburg, South Carolina. The Department conducted inspections on May 16, 2018, November 30, 2018, April 23, 2019, and May 1, 2019. 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, and pay a civil penalty in the amount of one thousand, six hundred dollars **(\$1,600.00)**.

Onsite Wastewater Enforcement

221) Order Type and Number: Administrative Order 19-05-OSWW
Order Date: April 23, 2019
Individual/Entity: **Roseanne Coty Perez**
Carmelo Perez
Facility: Roseanne Coty Perez
Carmelo Perez
Location: 868 Miller Road
Woodruff, SC 29388
Mailing Address: Same
County: Spartanburg
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Roseanne Coty Perez and Carmelo Perez (Individuals/Entities) own residential property located in Woodruff, South Carolina. The Department conducted an investigation on May 1, 2018, and observed domestic wastewater discharging to the surface of the ground. The Individuals/Entities have violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individuals/Entities are required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground; pay a civil penalty in the amount of seven hundred fifty dollars **(\$750.00)**; and pay a suspended penalty in the amount of five thousand dollars (\$5,000.00) should any requirement of the Order not be met.

222) Order Type and Number: Administrative Order 18-21-OSWW
Order Date: May 6, 2019
Individual/Entity: **Taylor Reuben Adams**
Facility: Taylor Reuben Adams
Location: 240 Warsaw Island Road
St. Helena, SC 29920
Mailing Address: Same
County: Beaufort
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Taylor Reuben Adams (Individual/Entity) owns property located in St. Helena, South Carolina. The Department conducted an investigation on August 10, 2017 and observed two camper units on the property without an approved means of waste water disposal. The Department also found a pipe used to discharge grey water from the sink and shower. The Individual/Entity has violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to provide an approved method for the treatment and disposal of domestic wastewater for each dwelling unit, building, business, or other structure occupied for more than two (2) hours per day.

Action: The Individual/Entity is required to: vacate the campers at the Site and ensure they remain vacated until a specialized OSWW system is installed by a Department-licensed contractor; an approval to operate has been issued by the Department prior to the system being placed into operation; and pay a **suspended penalty** in the amount of five thousand, seven hundred fifty dollars **(\$5,750.00)** should any requirement of the Order not be met.

223) <u>Order Type and Number:</u>	Administrative Order 19-12-OSWW
<u>Order Date:</u>	May 16, 2019
<u>Individual/Entity:</u>	Hoke Homes, LLC
<u>Facility:</u>	Hoke Homes, LLC
<u>Location:</u>	6707 Highway 76 Pendleton, SC 29670
<u>Mailing Address:</u>	406 Piedmont Golf Course Road Piedmont, SC 29673
<u>County:</u>	Anderson
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Hoke Homes, LLC (Individual/Entity) owns property located in Pendleton, South Carolina. The Department conducted an investigation on November 6, 2018, and observed domestic wastewater discharging to the surface of the ground. Individual/Entity has violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to: repair the OSWW system within fifteen (15) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residences remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground; pay a civil penalty in the amount of seven hundred fifty dollars **(\$750.00)**; and pay a suspended penalty in the amount of five thousand dollars (\$5,000.00) should any requirement of the Order not be met.

224) <u>Order Type and Number:</u>	Administrative Order 19-08-OSWW
<u>Order Date:</u>	June 18, 2019
<u>Individual/Entity:</u>	Tracy Wray
<u>Facility:</u>	Tracy Wray
<u>Location:</u>	409 Kraft Street Gaffney, SC

<u>Mailing Address:</u>	Same
<u>County:</u>	Cherokee
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Tracy Wray (Individual/Entity) owns property located in Gaffney, South Carolina. The Department conducted an investigation on January 24, 2019, and observed domestic wastewater discharging onto the surface of the ground. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to: repair the OSWW system within fifteen (15) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground; pay a civil penalty in the amount of seven hundred fifty dollars (**\$750.00**); and pay a suspended penalty in the amount of five thousand dollars (\$5,000.00) should any requirement of the Order not be met.

225) <u>Order Type and Number:</u>	Administrative Order 19-10-OSWW
<u>Order Date:</u>	June 18, 2019
<u>Individual/Entity:</u>	Dean Yopp
<u>Facility:</u>	Dean Yopp
<u>Location:</u>	1165 Watson Road Enoree, SC
<u>Mailing Address:</u>	Same
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Dean Yopp (Individual/Entity) owns property located at 1165 Watson Road in Enoree, South Carolina. The Department conducted an investigation on January 10, 2019, and observed domestic wastewater discharging onto the surface of the ground and running off the property onto an adjacent property. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to: repair the OSWW system within fifteen (15) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a civil penalty in the amount or seven hundred fifty dollars (**\$750.00**); and pay a suspended penalty in the amount of five thousand dollars (\$5,000.00) should any requirement of the Order not be met.

226) Order Type and Number: Administrative Order 19-24-OSWW
Order Date: June 18, 2019
Individual/Entity: **Shelley Nelson**
Facility: Shelley Nelson
Location: 129 Bluff Oaks Road
Columbia, SC
Mailing Address: Same
County: Richland
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Shelley Nelson (Individual/Entity) owns property located in Columbia, South Carolina. The Department conducted an investigation on May 28, 2019, and observed domestic wastewater discharging onto the surface of the ground and running off the property onto an adjacent property. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharge of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

227) Order Type and Number: Administrative Order 19-25-OSWW
Order Date: June 18, 2019
Individual/Entity: **Amanda Pearson**
Facility: Amanda Pearson
Location: 220 Emerald Circle
Clinton, SC
Mailing Address: Same
County: Laurens
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Amanda Pearson (Individual/Entity) owns property located in Clinton, South Carolina. The Department conducted an investigation on March 6, 2019, and observed domestic wastewater discharging onto the surface of the ground and running off the property onto an adjacent property. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow

of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

228) <u>Order Type and Number:</u>	Consent Order 19-01-OSWW
<u>Order Date:</u>	April 11, 2019
<u>Individual/Entity:</u>	Jesse R. Kuebler Katie A. Kuebler
<u>Facility:</u>	Jesse R. Kuebler Katie A. Kuebler
<u>Location:</u>	912 Still Spring Run Inman, SC 29349
<u>Mailing Address:</u>	Same
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Jesse R. Kuebler and Katie A. Kuebler (Individuals/Entities) own property located in Spartanburg, South Carolina. The Department conducted an investigation on October 15, 2018, and observed domestic wastewater discharging onto the surface of the ground and running off the property onto an adjacent property. The Individuals/Entities have violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individuals/Entities are required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

229) <u>Order Type and Number:</u>	Consent Order 19-04-OSWW
<u>Order Date:</u>	April 29, 2019
<u>Individual/Entity:</u>	Charles Orain Harvey III Lori Cox Teal
<u>Facility:</u>	Charles Orain Harvey III Lori Cox Teal
<u>Location:</u>	409 Howe Lane Wellford, SC 29385
<u>Mailing Address:</u>	Same
<u>County:</u>	Spartanburg
<u>Previous Orders:</u>	None
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Charles Orain Harvey III and Lori Cox Teal (Individuals/Entities) own property located in Wellford, South Carolina. The Department conducted an investigation on January 28, 2019, and observed domestic wastewater discharging onto the surface of the ground. The Individuals/Entities have violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individuals/Entities are required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

230) <u>Order Type and Number:</u>	Consent Order 19-13-OSWW
<u>Order Date:</u>	May 29, 2019
<u>Individual/Entity:</u>	Henry M. Graves, Individually and d.b.a. Graves Plumbing
<u>Facility:</u>	Henry M. Graves Graves Plumbing
<u>Location:</u>	1216 West Elizabeth Street Pageland, SC
<u>Mailing Address:</u>	1680 South Arant Street Pageland, SC
<u>County:</u>	Chesterfield
<u>Previous Orders:</u>	19-02-OSWW
<u>Permit Number:</u>	None
<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56; S.C. Code Ann Regs. 61-56.2

Summary: Henry M. Graves, Individually and d.b.a. Graves Plumbing (Individual/Entity) holds a Department-issued license as a Master Contractor to engage in installing and repairing of OSWW systems. The Department received a complaint about a malfunctioning OSWW system in Pageland, South Carolina and it was determined the OSWW system was not installed in accordance with the issued permit for the Site. The Individual/Entity has violated the South Carolina Onsite Wastewater Systems (OSWW) Regulation as follows: failed to construct an onsite wastewater system in accordance with the issued permit; failed to have the Department authorize any changes to permit specifications prior to the construction and operation of the system; and failed to ensure that an OSWW system installed and approved as a master contractor was not installed pursuant to, and in compliance with, the Department issued permit.

Action: The Individual/Entity is required to: henceforth ensure that all onsite wastewater systems installed and approved as a master contractor are installed pursuant to, and in compliance with, construction and operation permits issued by the Department; ensure that any changes to permitted construction specifications are approved by the Department prior to construction and operation; and pay a civil penalty in the amount of one thousand dollars **(\$1,000.00)**.

231)	<u>Order Type and Number:</u>	Consent Order 19-11-OSWW
	<u>Order Date:</u>	June 3, 2019
	<u>Individual/Entity:</u>	Gloria Wilson
	<u>Facility:</u>	Gloria Wilson
	<u>Location:</u>	539 Wilman Lane Moncks Corner, SC
	<u>Mailing Address:</u>	P.O. Box 1834 Moncks Corner, SC 29461
	<u>County:</u>	Berkeley County
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56

Summary: Gloria Wilson (Individual/Entity) owns property located in Moncks Corner, South Carolina. The Department conducted an investigation on December 7, 2018 and observed an exposed septic tank with no drain field or outlet pipe. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: occupied a dwelling at the Site without an approved means of wastewater disposal; failed to obtain proper permitting from the Department prior to operation of an onsite wastewater system; and failed to ensure the onsite wastewater system at the Site was not constructed and operated in compliance with the specifications and conditions of the permit to construct.

Action: The Individual/Entity is required to: immediately vacate the residence connected to the existing septic tank at the Site and ensure it remains vacated until a proper OSWW system is installed by a Department-licensed contractor and approved by the Department in accordance with all requirements of R. 61-56 and the April 20, 2017 Permit to Construct; ensure an Approval to Operate has been received from the Department prior to the OSWW system being placed into operation; and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

232)	<u>Order Type and Number:</u>	Consent Order 19-07-OSWW
	<u>Order Date:</u>	June 11, 2019
	<u>Individual/Entity:</u>	Michael Hambrick, Individually and d.b.a. Palmetto Pumpers
	<u>Facility:</u>	Michael Hambrick Palmetto Pumpers
	<u>Location:</u>	4661 Gablestone Drive Hoschton, GA
	<u>Mailing Address:</u>	Same
	<u>County:</u>	Anderson
	<u>Previous Orders:</u>	None
	<u>Permit Number:</u>	None
	<u>Violations Cited:</u>	S.C. Code Ann. Regs. 61-56.1

Summary: Michael Hambrick, Individually and d.b.a. Palmetto Pumpers (Individual/Entity), does not possess Department-issued licenses to construct or repair onsite wastewater (OSWW) systems. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to apply for, receive, and maintain a valid license to construct, repair, or clean onsite sewage treatment and disposal systems or the cleaning of self-contained toilets in South Carolina.

Action: The Individual/Entity is required to: immediately cease and desist engaging in the business of construction or repair of onsite sewage treatment and disposal systems in South Carolina without a valid Department-issued license and pay a civil penalty in the amount of five hundred dollars **(\$500.00)**.

233) Order Type and Number: Consent Order 19-16-OSWW
Order Date: June 11, 2019
Individual/Entity: **Calvin T. Rice**
Dora B. Rice
Facility: Calvin T. Rice
Dora B. Rice
Location: 119 Wilson Bridge Road
Fountain Inn, SC
Mailing Address: 909 Viking Drive
High Point, NC
County: Greenville
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Calvin T. Rice and Dora B. Rice (Individuals/Entities) own property located in Fountain Inn, South Carolina. The Department conducted an investigation on April 2, 2019, and observed domestic wastewater discharging onto the surface of the ground. The Individuals/Entities have violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individuals/Entities are required to: repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharges of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

234) Order Type and Number: Consent Order 19-19-OSWW
Order Date: June 18, 2019
Individual/Entity: **Linda H. Gregory**
Facility: Linda H. Gregory
Location: 57 Gosnell Avenue
Inman, SC
Mailing Address: 8621 Highway 9
Inman, SC
County: Spartanburg
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Linda H. Gregory (Individual/Entity) owns property located in Inman, South Carolina. The Department conducted an investigation on March 27, 2019, and observed domestic wastewater discharging onto the surface of the ground and running off the property onto an adjacent property. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent or domestic wastewater or sewage to the surface of the ground or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system and ensure the residence remains vacated until adequate repairs are made to the OSWW system to eliminate the discharge of septic tank effluent or domestic wastewater or sewage to the surface of the ground and pay a **suspended penalty** in the amount of five thousand dollars **(\$5,000.00)** should any requirement of the Order not be met.

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

BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
SUMMARY SHEET

August 8, 2019

(X) ACTION/DECISION

() INFORMATION

I. TITLE: Request for a second nine-month Board extension of Certificate of Need (CON) SC-16-19, issued to Trident Medical Center, LLC d/b/a Berkeley Medical Center (BMC) for construction of a new 50 bed acute care hospital to include an MRI and a CT scanner.

II. SUBJECT: BMC requests Board approval for extension of CON SC-16-19.

III. FACTS:

CON SC-16-19 was issued to BMC on May 26, 2016 for the referenced project. The original CON had an expiration date of May 26, 2017. BMC requested a first staff extension of the CON on April 24, 2017, which was more than 30 days prior to expiration. BMC received CON SC-16-19-EXT-1 on May 17, 2017, and it was valid until February 26, 2018, a period of nine months from the original expiration of the CON. BMC requested a second staff extension of the CON on January 26, 2018, which was 30 days prior to expiration. BMC received CON SC-16-19-EXT-2 on March 5, 2018, and it was valid until November 26, 2018, a period of nine months from the revised expiration of the CON. BMC requested a third extension from the Board (first Board extension) on August 24, 2018, which was 90 days prior to expiration, and the Board approved this request on November 11, 2019. BMC received CON SC-16-19-EXT-3 on November 28, 2018, and it will expire on August 26, 2019. In accordance with R. 61-15, Section 601, BMC submitted a fourth extension request (second Board extension request) to the Department on May 22, 2019, which is more than 90 days prior to expiration.

IV. ANALYSIS:

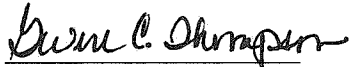
Department staff have reviewed all relevant information concerning this fourth extension request and find that BMC has not demonstrated substantial progress sufficient to warrant further extension of CON SC-16-19. BMC's stated grounds for its request are delay in implementing the project due to: 1) an unforeseen wetlands issue, and 2) opposition by Medical University Hospital Authority (MUHA), the parent of MUSC, in connection with BMC's second and third extension requests. Although the Department has extended expiration of this CON for more than two years, BMC has not yet determined when, or if, it will be able to satisfactorily resolve the wetlands issue. According to recent documentation submitted to the Department by BMC, the wetlands mitigation credits BMC must purchase in order to proceed do not yet exist, and the future "release" of these credits for purchase by BMC has been delayed and is not guaranteed to occur at all. BMC has paid a "Reservation Purchase Price" for these "future" credits, and BMC is contractually entitled to a full refund of this purchase price if the reserved credits are not released by July 26, 2019. Moreover, in the 26 months since the original expiration date of the CON, BMC has demonstrated no additional progress towards development of final architectural drawings and has failed to provide reasonable assurance that the project will be under construction or implemented within the requested extension timeframe. Finally, BMC's claim regarding delay caused by MUHA's opposition appears to reference opposition by MUHA's to BMC's third extension request (first Board request). MUHA opposed BMC's second extension request, but MUHA did not oppose BMC's third extension request. Staff recommended, and the Board approved, the third extension for the purpose of awaiting resolution of the litigation associated with BMC's second extension, and that litigation was resolved roughly two months

later. As such, staff do not agree that opposition by MUHA is sufficient grounds for granting an additional 9-month extension for this project.

V. RECOMMENDATION:

Department staff recommend that the Board finds BMC has not demonstrated substantial progress in connection with CON SC-16-19, and that the Board deny BMC's request.

Approved by:



Gwen C. Thompson
Interim Director
Health Regulation

Attachments:

- A. CON SC-16-19
- B. Letter granting first extension of CON
- C. Letter granting second extension of CON
- D. Letter granting third extension of CON
- E. Letter requesting fourth extension of CON

South Carolina Department of Health and Environmental Control



Certificate of Need

SC-16-19

IS HEREBY ISSUED TO FACILITY: Berkeley Medical Center

FACILITY LOCATION: Moncks Corner, South Carolina
Berkeley County

LICENSEE: Trident Medical Center, LLC

AGENT: Jim Rardin

FOR: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.

TOTAL PROJECT COST: \$115,000,000

This Certificate is being issued in accordance with the Code of Laws of South Carolina.

In determining the need for this project, the South Carolina Department of Health and Environmental Control has taken into consideration the "Criteria for Project Review" and the South Carolina Health Plan as established in the "State Certification of Need and Health Facility Licensure Act," S.C. Code Ann. 44-7-110 et seq. and Regulation 61-15, "Certification of Need for Health Facilities and Services."

This Certificate of Need is valid until May 26, 2017 which is a period of twelve (12) months from the date of issuance unless the applicant receives an extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 26th day of May, 2016.

Louis W. Eubank
Director, Certificate of Need Program



May 17, 2017

VIA EMAIL AND CERTIFIED MAIL

William R. Thomas
Parker Poe
1221 Main Street, Suite 1100
Columbia, SC 29201

Re: Request for an Extension of Certificate of Need No. SC-16-19
Project: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.
Berkeley Medical Center

Dear Mr. Thomas:

The South Carolina Department of Health and Environmental Control ("Department") has reviewed your request for an extension of the above referenced Certificate of Need ("Certificate" or "CON"). A Certificate is valid for one year from the date of issuance. SC Code § 44-7-230(D). If a project is not completed before the expiration of that year, or if progress on the project does not comply with the timetable set forth in the CON application, then the Department may revoke the Certificate. The holder of a CON may apply to the Department for an extension of the Certificate's expiration period pursuant to S.C. Code Regs. 61-15 sections 601 through 603. Initially, Department staff may grant up to two extensions of as long as nine months apiece upon a proper showing that substantial progress has been made in implementing the project. Subsequent extensions may only be granted by the Department's Board. SC Code § 44-7-230(D).

Based on the material you provided in support of your request, it is the decision of the Department to **grant you a nine (9) month initial extension** for Certificate No. SC-16-19. The Department's decision is based on the following findings:

- You have demonstrated that circumstances beyond the control of the applicant have prevented compliance with the Project's approved timetable, and
- You have provided the Department with reasonable assurance that the Project will be under construction or implemented within the requested extension period.

A copy of the Department's Guide to Board Review is enclosed for your convenience. Should you require further information, please contact me at (803) 545-3652.

Sincerely,



Louis Eubank
Director, Certificate of Need Program

Enclosures: Guide to Board Review.
CON SC-16-19-EXT-1

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:
South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

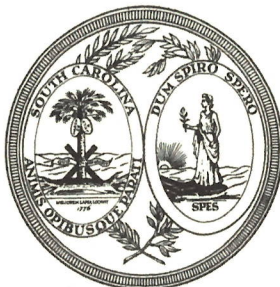
III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council.. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

South Carolina Department of Health and Environmental Control



Certificate of Need

SC-16-19-EXT-1

IS HEREBY ISSUED TO FACILITY: Berkeley Medical Center

FACILITY LOCATION: Moncks Corner, South Carolina
Berkeley County

LICENSEE: Trident Medical Center, LLC

AGENT: Jim Rardin

FOR: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.

TOTAL PROJECT COST: \$115,000,000

This Certificate is being issued in accordance with the Code of Laws of South Carolina.

In determining the need for this project, the South Carolina Department of Health and Environmental Control has taken into consideration the "Criteria for Project Review" and the South Carolina Health Plan as established in the "State Certification of Need and Health Facility Licensure Act," S.C. Code Ann. 44-7-110 et seq. and Regulation 61-15, "Certification of Need for Health Facilities and Services."

This Certificate of Need is valid until February 26, 2018 which is a period of nine (9) months from the date of prior Certificate of Need expiration unless the applicant receives an additional extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 17th day of May.

A blue ink handwritten signature, appearing to read "Louis W. Eubank", written over a horizontal dashed line.

Louis W. Eubank
Director, Certificate of Need Program





March 5, 2018

VIA EMAIL AND CERTIFIED MAIL

William R. Thomas, Esquire
Parker Poe
1221 Main Street, Suite 1100
Columbia, SC 29201

Re: Request for an Extension of Certificate of Need No. SC-16-19

Project: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.
Berkeley County, South Carolina

Dear Mr. Thomas:

The South Carolina Department of Health and Environmental Control ("Department") has reviewed your request for an extension of the above referenced Certificate of Need ("Certificate" or "CON"). A Certificate is valid for one year from the date of issuance. SC Code § 44-7-230(D). If a project is not completed before the expiration of that year, or if progress on the project does not comply with the timetable set forth in the CON application, then the Department may revoke the Certificate. The holder of a CON may apply to the Department for an extension of the Certificate's expiration period pursuant to S.C. Code Regs. 61-15 sections 601 through 603. Initially, Department staff may grant up to two extensions of as long as nine months apiece upon a proper showing that substantial progress has been made in implementing the project. Subsequent extensions may only be granted by the Department's Board. SC Code § 44-7-230(D).

Based on the material you provided in support of your request, it is the decision of the Department to **grant you a second nine (9) month extension** for Certificate No. SC-16-19. The original The Department's decision is based on the following findings:

- You have demonstrated that circumstances beyond the control of the applicant have prevented compliance with the Project's approved timetable, and
- You have provided the Department with reasonable assurance that the Project will be under construction or implemented within the requested extension period.

Based on the assurances you have provided the Department, it is understood that the wetlands permitting process currently before the U.S. Army Corps of Engineers will be complete, or nearly complete, by the time of expiration of this second CON extension. Further extensions of SC-16-19 may be granted by the Department Board, with recommendations made by staff, based on current information **to include the status of this permitting process.**

A copy of the Department's Guide to Board Review is enclosed for your convenience. Should you require further information, please contact me at (803) 545-3652.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Louis Eubank', with a stylized flourish at the end.

Louis Eubank, Chief
Bureau of Healthcare Planning and Construction

cc: M. Elizabeth Crum, Esquire (email)

Enclosures: Guide to Board Review.
CON SC-16-19-EXT-2

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:
South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

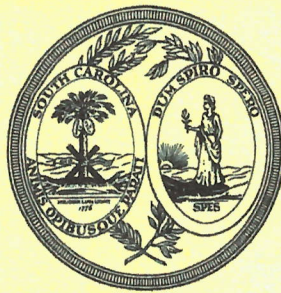
III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

South Carolina Department of Health and Environmental Control



Certificate of Need

SC-16-19-EXT-2

IS HEREBY ISSUED TO FACILITY: Berkeley Medical Center

FACILITY LOCATION: Moncks Corner, South Carolina
Berkeley County

LICENSEE: Trident Medical Center, LLC

AGENT: Jim Rardin

FOR: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.

TOTAL PROJECT COST: \$115,000,000

This Certificate is being issued in accordance with the Code of Laws of South Carolina.

In determining the need for this project, the South Carolina Department of Health and Environmental Control has taken into consideration the "Criteria for Project Review" and the South Carolina Health Plan as established in the "State Certification of Need and Health Facility Licensure Act," S.C. Code Ann. 44-7-110 et seq. and Regulation 61-15, "Certification of Need for Health Facilities and Services."

This Certificate of Need is valid until November 26, 2018 which is a period of nine (9) months from the date of prior Certificate of Need expiration unless the applicant receives an additional extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 5th day of March, 2018.

A blue ink handwritten signature, appearing to read "Louis W. Eubank", written over a horizontal dashed line.

Louis W. Eubank, Chief
Bureau of Healthcare Planning and Construction





Article #: 92148969009997901413444655

November 28, 2018

VIA EMAIL AND CERTIFIED MAIL

William R. Thomas, Esquire
Parker Poe
1221 Main Street, Suite 1100
Columbia, SC 29201

Re: Request for an Extension of Certificate of Need No. SC-16-19

Project: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.
Berkeley County, South Carolina

Dear Mr. Thomas:

The South Carolina Department of Health and Environmental Control ("Department") has reviewed your request for an extension of the above referenced Certificate of Need ("Certificate" or "CON"). A Certificate is valid for one year from the date of issuance. SC Code § 44-7-230(D). If a project is not completed before the expiration of that year, or if progress on the project does not comply with the timetable set forth in the CON application, then the Department may revoke the Certificate. The holder of a CON may apply to the Department for an extension of the Certificate's expiration period pursuant to S.C. Code Regs. 61-15 sections 601 through 603. Initially, Department staff may grant up to two extensions of as long as nine months apiece upon a proper showing that substantial progress has been made in implementing the project. Subsequent extensions may only be granted by the Department's Board. SC Code § 44-7-230(D).

Based on the material you provided in support of your request, it is the decision of the Department to **grant you a second nine (9) month extension** for Certificate No. SC-16-19. The original The Department's decision is based on the following findings:

- You have demonstrated that circumstances beyond the control of the applicant have prevented compliance with the Project's approved timetable, and
- You have provided the Department with reasonable assurance that the Project will be under construction or implemented within the requested extension period.

Please note that all subsequent requests for extension of SC-15-26 are subject to approval by the Department Board. Requests for such extension must be received 90-days prior to expiration of the current extension.

A copy of the Department's Guide to Board Review is enclosed for your convenience. Should you require further information, please contact me at (803) 545-3652.

S.C. Department of Health and Environmental Control

2600 Bull Street, Columbia, SC 29201 (803) 898-3432 www.scdhec.gov

Sincerely,

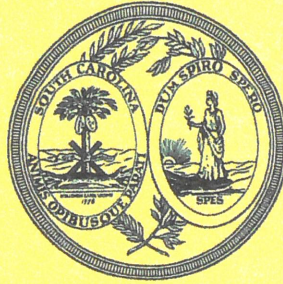
A handwritten signature in blue ink, appearing to read 'Louis Eubank', with a long horizontal flourish extending to the right.

Louis Eubank, Chief
Bureau of Healthcare Planning and Construction

cc: William R. Thomas, Esquire (email)
M. Elizabeth Crum, Esquire (email)

Enclosures: CON SC-16-19-EXT-3

South Carolina Department of Health
and Environmental Control



Certificate of Need

SC-16-19-EXT-3

IS HEREBY ISSUED TO FACILITY: Berkeley Medical Center

FACILITY LOCATION: Moncks Corner, South Carolina
Berkeley County

LICENSEE: Trident Medical Center, LLC

AGENT: Jim Rardin

FOR: Construction of a new 50 bed acute care hospital to include an MRI and CT scanner.

TOTAL PROJECT COST: \$115,000,000

This Certificate is being issued in accordance with the Code of Laws of South Carolina.

In determining the need for this project, the South Carolina Department of Health and Environmental Control has taken into consideration the "Criteria for Project Review" and the South Carolina Health Plan as established in the "State Certification of Need and Health Facility Licensure Act," S.C. Code Ann. 44-7-110 et seq. and Regulation 61-15, "Certification of Need for Health Facilities and Services."

This Certificate of Need is valid until August 26, 2019 which is a period of nine (9) months from the date of prior Certificate of Need expiration unless the applicant receives an additional extension from the Department in accordance with applicable regulations.

Witness to this Certificate is confirmed by my signature and the seal of the Department of Health and Environmental Control this 28th day of November, 2018.

Louis W. Eubank, Chief
Bureau of Healthcare Planning and Construction



South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

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1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
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 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
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 - Rebuttal by Department staff [15 minutes]
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4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council.. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

Date: August 8, 2019

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

From: Bureau of Public Health Preparedness

Re: Public Hearing for Notice of Final Regulation Repealing R.61-23, *Control of Anthrax*, Document No. 4880

I. Introduction

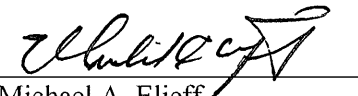
The Bureau of Public Health Preparedness ("Bureau") proposes the attached Notice of Final Regulation repealing R.61-23, *Control of Anthrax*. Legal authority resides in S.C. Code Section 44-1-140, which allows the Department of Health and Environmental Control ("Department") to make rules for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this proposed repeal.

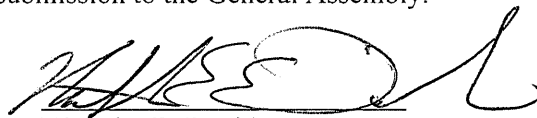
II. Facts

1. The Department promulgated R.61-23 in July of 1960 to prevent and/or control the ownership, possession, or transport of anthrax into or through the state. This regulation is obsolete, as the federal government established Select Agent Regulations, at Code of Federal Regulations Title 7, Part 331 and Title 9, Part 121, effective February 7, 2003, setting forth requirements for possession, use, and transfer of select agents and toxins. The Federal Select Agent Program oversees and regulates the possession, use, and transfer of biological agents. The Federal Select Agent Program is jointly comprised of the Centers for Disease Control and Prevention/Division of Select Agents and Toxins, and the Animal and Plant Health Inspection Service/Agriculture Select Agent Services.
2. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*.
3. Appropriate Department staff conducted an internal review of the proposed repeal on March 27, 2019.
4. The Department had a Notice of Proposed Regulation published in the May 9, 2019, *State Register*. The Department received no public comments by the June 24, 2019, close of the public comment period.

III. Request for Approval

The Bureau respectfully requests the Board to grant a finding of need and reasonableness of the attached proposed repeal of R.61-23, *Control of Anthrax*, for submission to the General Assembly.


Michael A. Elieff
Director, Bureau of Public
Health Preparedness


Nicholas E. Davidson
Interim Director, Public Health

Attachments:

- A. Notice of Final Regulation

ATTACHMENT A

STATE REGISTER NOTICE OF FINAL REGULATION
FOR R.61-23, *Control of Anthrax*

August 8, 2019

Document No. 4880

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Section 44-1-140

61-23. Control of Anthrax.

Synopsis:

The Department of Health and Environmental Control (“Department”) promulgated R.61-23 in July of 1960 to prevent and/or control the ownership, possession, or transport of anthrax into or through the state. This regulation is obsolete, as the federal government established Select Agent Regulations, at Code of Federal Regulations Title 7, Part 331 and Title 9, Part 121, effective February 7, 2003, setting forth requirements for possession, use, and transfer of select agents and toxins. The Federal Select Agent Program oversees and regulates the possession, use, and transfer of biological agents. The Federal Select Agent Program is jointly comprised of the Centers for Disease Control and Prevention/Division of Select Agents and Toxins, and the Animal and Plant Health Inspection Service/Agriculture Select Agent Services.

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

Instructions: Repeal R.61-23, Control of Anthrax, in its entirety in the South Carolina Code of Regulations.

~~Indicates Matter Stricken~~

Indicates New Matter

Text:

~~61-23. Control of Anthrax.~~

~~It shall be unlawful to ship or otherwise transport into or through the State of South Carolina, or to own or have in possession within the said State any product or animal by-product, foodstuff or other material considered to constitute a health hazard which originates in a county, state, or country where anthrax or other communicable diseases are reported to exist, provided that the aforementioned products may be permitted entry into the State of South Carolina upon written application and under such requirements and conditions as may be required by the State Health Officer. Such permit shall be in writing and shall accompany the shipment from its point of entry to its destination within the State, provided that this regulation is in conjunction with and not in conflict with any other State or Federal regulation pertaining to the same subject matter. [Repealed].~~

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

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

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

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

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

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

The Department promulgated R.61-23 in 1960. This regulation is no longer needed due to the passage of federal regulations governing the possession, use, and transfer of biological select agents and toxins posing a threat to public, animal, or plant health, or to animal or plant products.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Statement of Rationale:

R.61-23 is obsolete, as the federal government has established federal regulations under the Federal Select Agent Program. The federal program oversees the possession, use, and transfer of biological select agents

and toxins, which have the potential to pose a severe threat to public, animal, or plant health, or to animal or plant products.

Date: August 8, 2019

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. 4881

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 August 23, 2019, *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 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 the Department promulgates these amendments for compliance with federal law. The amendments will take legal effect as of the August 23, 2019, publication in the *State Register*.

II. Facts


1. Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.
2. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60 and 63 include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411, and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412.
3. The Department is amending R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, and R.61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to adopt amendments to the federal standards promulgated from January 1, 2018, through December 31, 2018.
4. The Department also is amending R.61-62.60, Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, and Subpart DDDD, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department and ensure compliance with federal law.
5. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*.
6. Appropriate Department staff conducted an internal review of the amendments on March 21, 2019.
7. The Bureau held a stakeholder meeting on April 11, 2019, as part of the annual Carolinas Air Pollution Control Association meeting. Additionally, the Bureau provided the draft amendments to the affected facilities subject to R.61-62.60, Subpart Cf, and R.61-62.60, Subpart DDDD, for their review.

8. The Department had a Notice of Proposed Regulation published in the May 24, 2019, *State Register*. The Department received public comments from the South Carolina Chapters of the Solid Waste Association of North America (SWANA) and the National Waste & Recycling Association (NWRA) by the June 24, 2019, close of the public comment period. Attachment B presents a summary of these public comments received and Department responses.

9. In accordance with S.C. Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement was required.

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 August 23, 2019, publication in the *State Register*.


Rhonda B. Thompson, P.E.
Chief
Bureau of Air Quality


Myra C. Keece
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 REGULATION 61-62, *AIR POLLUTION CONTROL REGULATIONS AND STANDARDS*

August 8, 2019

Document No. 4881

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

61-62. Air Pollution Control Regulations and Standards.

Synopsis:

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

Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

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

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

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

Section-by-Section Discussion of Amendments:

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

Regulation 61-62.60, Subpart A, "General Provisions":

Subpart A, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, and 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.60, Subpart Cf, “Emission Guidelines And Compliance Times For Municipal Solid Waste Landfills”:

Subpart Cf is retitled and amended to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

Regulation 61-62.60, Subpart Ja, “Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007”:

Subpart Ja, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.60, Subpart DDDD, “Emissions Guidelines And Compliance Times For Commercial And Industrial Solid Waste Incineration Units”:

Subpart DDDD is retitled and amended to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

Regulation 61-62.60, Subpart OOOOa, “Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015”:

Subpart OOOOa, Table, is amended to incorporate federal revisions at 83 FR 10628, March 12, 2018, by reference.

Regulation 61-62.60, Subpart QQQQ, “Standards of Performance For New Residential Hydronic Heaters And Forced-Air Furnaces”:

Subpart QQQQ, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, by reference.

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

Regulation 61-62.63, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 83 FR 51842, October 15, 2018, and 83 FR 56713, November 14, 2018, by reference.

Regulation 61-62.63, Subpart CC, “National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries”:

Subpart CC, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.63, Subpart LLL, “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry”:

Subpart LLL, Table, is amended to incorporate federal revisions at 83 FR 35122, July 25, 2018, and 83 FR 38036, August 3, 2018, by reference.

Regulation 61-62.63, Subpart OOO, “National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins”:

Subpart OOO, Table, is amended to incorporate federal revisions at 83 FR 51842, October 15, 2018, by reference.

Regulation 61-62.63, Subpart UUU, “National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units”:

Subpart UUU, Table, is amended to incorporate federal revisions at 83 FR 60696, November 26, 2018, by reference.

Regulation 61-62.63, Subpart DDDDD, “National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Industrial Boilers and Process Heaters”:

Subpart DDDDD, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, by reference.

Regulation 61-62.63, Subpart UUUUU, “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units”:

Subpart UUUUU, Table, is amended to incorporate federal revisions at 83 FR 56713, November 14, 2018, by reference.

~~Indicates Matter Stricken~~

Indicates New Matter

Text:

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

Regulation 61-62.60, Subpart A, shall be revised as follows:

Subpart A - “General Provisions”

The provisions of 40 Code of Federal Regulations (CFR) Part 60 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.

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 36	December 23, 1971	[36 FR 24877]
Revision	Vol. 38	October 15, 1973	[38 FR 28565]
Revision	Vol. 39	March 8, 1974	[39 FR 9314]
Revision	Vol. 39	November 12, 1974	[39 FR 39873]
Revision	Vol. 40	April 25, 1975	[40 FR 18169]
Revision	Vol. 40	October 6, 1975	[40 FR 46254]
Revision	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 40	December 16, 1975	[40 FR 58418]
Revision	Vol. 40	December 22, 1975	[40 FR 59205]
Revision	Vol. 41	August 20, 1976	[41 FR 35185]
Revision	Vol. 42	July 19, 1977	[42 FR 37000]
Revision	Vol. 42	July 27, 1977	[42 FR 38178]
Revision	Vol. 42	November 1, 1977	[42 FR 57126]
Revision	Vol. 43	March 3, 1978	[43 FR 8800]
Revision	Vol. 43	August 3, 1978	[43 FR 34347]
Revision	Vol. 44	June 11, 1979	[44 FR 33612]
Revision	Vol. 44	September 25, 1979	[44 FR 55173]

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 45	January 23, 1980	[45 FR 5617]
Revision	Vol. 45	April 4, 1980	[45 FR 23379]
Revision	Vol. 45	December 24, 1980	[45 FR 85415]
Revision	Vol. 47	January 8, 1982	[47 FR 951]
Revision	Vol. 47	July 23, 1982	[47 FR 31876]
Revision	Vol. 48	March 30, 1983	[48 FR 13326]
Revision	Vol. 48	May 25, 1983	[48 FR 23610]
Revision	Vol. 48	July 20, 1983	[48 FR 32986]
Revision	Vol. 48	October 18, 1983	[48 FR 48335]
Revision	Vol. 50	December 27, 1985	[50 FR 53113]
Revision	Vol. 51	January 15, 1986	[51 FR 1790]
Revision	Vol. 51	January 21, 1986	[51 FR 2701]
Revision	Vol. 51	November 25, 1986	[51 FR 42796]
Revision	Vol. 52	March 26, 1987	[52 FR 9781, 9782]
Revision	Vol. 52	April 8, 1987	[52 FR 11428]
Revision	Vol. 52	May 11, 1987	[52 FR 17555]
Revision	Vol. 52	June 4, 1987	[52 FR 21007]
Revision	Vol. 54	February 14, 1989	[54 FR 6662]
Revision	Vol. 54	May 17, 1989	[54 FR 21344]
Revision	Vol. 55	December 13, 1990	[55 FR 51382]
Revision	Vol. 57	July 21, 1992	[57 FR 32338, 32339]
Revision	Vol. 59	March 16, 1994	[59 FR 12427, 12428]
Revision	Vol. 59	September 15, 1994	[59 FR 47265]
Revision	Vol. 61	March 12, 1996	[61 FR 9919]
Revision	Vol. 62	February 24, 1997	[62 FR 8328]
Revision	Vol. 62	September 15, 1997	[62 FR 48348]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 64	February 12, 1999	[64 FR 7463]
Revision	Vol. 65	August 10, 2000	[65 FR 48914]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 6, 2000	[65 FR 76350, 76378]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	February 6, 2001	[66 FR 9034]
Revision	Vol. 67	June 28, 2002	[67 FR 43550]
Revision	Vol. 68	April 14, 2003	[68 FR 17990]
Revision	Vol. 68	May 28, 2003	[68 FR 31611]
Revision	Vol. 69	July 8, 2004	[69 FR 41346]
Revision	Vol. 70	December 16, 2005	[70 FR 74870]
Revision	Vol. 71	June 1, 2006	[71 FR 31100]
Revision	Vol. 71	July 6, 2006	[71 FR 38482]
Revision	Vol. 72	May 16, 2007	[72 FR 27437]
Revision	Vol. 72	June 13, 2007	[72 FR 32710]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]

40 CFR Part 60 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 73	April 3, 2008	[73 FR 18162]
Revision	Vol. 73	May 6, 2008	[73 FR 24870]
Revision	Vol. 73	May 27, 2008	[73 FR 30308]
Revision	Vol. 73	June 24, 2008	[73 FR 35838]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	January 28, 2009	[74 FR 5072]
Revision	Vol. 74	October 6, 2009	[74 FR 51368]
Revision	Vol. 74	October 8, 2009	[74 FR 51950]
Revision	Vol. 74	December 17, 2009	[74 FR 66921]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 76	January 18, 2011	[76 FR 2832]
Revision	Vol. 76	March 21, 2011	[76 FR 15372]
Revision	Vol. 76	March 21, 2011	[76 FR 15704]
Revision	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	August 14, 2012	[77 FR 48433]
Revision	Vol. 77	September 12, 2012	[77 FR 56422]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	April 4, 2014	[79 FR 18952]
Revision	Vol. 80	March 16, 2015	[80 FR 13671]
Revision	Vol. 81	June 3, 2016	[81 FR 35824]
Revision	Vol. 81	June 30, 2016	[81 FR 42542]
Revision	Vol. 81	August 29, 2016	[81 FR 59276, 59332]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	June 23, 2017	[82 FR 28561]
Revision	Vol. 82	July 17, 2017	[82 FR 32644]
<u>Revision</u>	<u>Vol. 83</u>	<u>November 14, 2018</u>	<u>[83 FR 56713]</u>
<u>Revision</u>	<u>Vol. 83</u>	<u>November 26, 2018</u>	<u>[83 FR 60696]</u>

Regulation 61-62.60, Subpart Cf, shall be revised as follows:

Subpart Cf - “Emission Guidelines Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills”

The provisions of 40 CFR Part 60 Subpart Cf, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein:

40 CFR Part 60 Subpart Cf			
Federal Register Citation	Volume	Date	Notice
<u>Original Promulgation</u>	<u>Vol. 81</u>	<u>August 29, 2016</u>	<u>[81 FR 59276]</u>

(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.

40 CFR Part 60 Subpart Cf			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 81	August 29, 2016	[81 FR 59276]

(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 Ja, shall be revised as follows:

Subpart Ja - “Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007”

The provisions of 40 CFR Part 60 Subpart Ja, 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.

40 CFR Part 60 Subpart Ja			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 73	June 24, 2008	[73 FR 35838]
Revision	Vol. 73	July 28, 2008	[73 FR 43626]
Revision	Vol. 73	September 26, 2008	[73 FR 55751]
Revision	Vol. 73	December 22, 2008	[73 FR 78546]
Revision	Vol. 73	December 22, 2008	[73 FR 78549]
Revision	Vol. 77	September 12, 2012	[77 FR 56422]
Revision	Vol. 78	December 19, 2013	[78 FR 76753]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 81	July 13, 2016	[81 FR 45232]
Revision	Vol. 83	November 26, 2018	[83 FR 60696]

Regulation 61-62.60, Subpart DDDD, shall be revised as follows:

Subpart DDDD - “~~Performance Standards~~Emissions Guidelines and Compliance Times for Existing Commercial and Industrial Solid Waste Incineration Units”

The provisions of 40 CFR Part 60 Subpart DDDD, 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.

40 CFR Part 60 Subpart DDDD			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
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]

(A) Except as provided in (B) below, incineration units that meet all three criteria set forth in 40 CFR 60.2550(a)(1) through (a)(3) are subject to this subpart and must comply with all applicable requirements of this subpart.

(B) This subpart exempts the types of units described in paragraphs (a) through (j) of 40 CFR 60.2555, but some units are required to provide notifications. For purposes of this paragraph, the words “Administrator” and “Agency” as used in 40 CFR 60.2555 shall be replaced by “Department” and “EPA Administrator” respectively.

(C) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meet the definition of modification or reconstruction after August 7, 2013, the CISWI unit becomes subject to 40 CFR Part 60, Subpart CCCC and Regulation 61-62.60, Subpart CCCC, and this subpart no longer applies to that unit.

(D) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this subpart, 40 CFR Part 60, Subpart CCCC and Regulation 61-62.60, Subpart CCCC do not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 CFR Part 60, Subpart CCCC or Regulation 61-62.60, Subpart CCCC.

(E) For purposes of this subpart, “you” means the owner or operator of a CISWI unit.

(F) Each owner or operator of an existing CISWI unit shall comply with the model rule standards, requirements, and provisions of 40 CFR Part 60, Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units), as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below:

40 CFR Part 60 Subpart DDDD			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
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]

These standards, requirements, and provisions are hereby incorporated and adopted by reference as follows:

- (1) 40 CFR 60.2610 and 40 CFR 60.2615, Increments of Progress.
- (2) 40 CFR 60.2620, 40 CFR 60.2625, and 40 CFR 60.2630, Waste Management Plan, due no later than compliance date listed in Table 1 below.
- (3) 40 CFR 60.2635 through 40 CFR 60.2665, Operator Training and Qualification.
- (4) 40 CFR 60.2670 through 60.2680, Emission Limitations and Operating Limits.
- (5) 40 CFR 60.2690 through 60.2695, Performance Testing.
- (6) 40 CFR 60.2700 through 60.2706, Initial Compliance Requirements.
- (7) 40 CFR 60.2710 through 60.2725, Continuous Compliance Requirements.
- (8) 40 CFR 60.2730 through 60.2735, Monitoring.
- (9) 40 CFR 60.2740 through 60.2800, Recordkeeping and Reporting, including submission of waste management plan no later than compliance date listed in Table 1 below; with the exception of the following: all reports required under 40 CFR 60.2795(a), (b)(1), and (b)(2) must be submitted to the Department in addition to being sent to the EPA.
- (10) 40 CFR 60.2805, Title V Operating Permits.
- (11) 40 CFR 60.2810 and 40 CFR 60.2850(b) through 60.2870, Air Curtain Incinerators.
- (12) 40 CFR 60.2875, Definitions, except that the word “Administrator” shall mean the Department of Health and Environmental Control, with the exception of provisions within this subpart that may not be delegated by the EPA.

(13) 40 CFR Part 60 Subpart DDDD Table 1, modified as follows:

TABLE 1 TO SUBPART DDDD OF PART 60 - COMPLIANCE SCHEDULES

COMPLY WITH COMPLIANCE SCHEDULE	BY THIS DATE
FINAL COMPLIANCE WITH PERFORMANCE STANDARDS	February 7, 2018.

- (14) 40 CFR Part 60 Subpart DDDD Tables 2 through 9, retitled as follows:
- (a) Table 2 to Subpart DDDD - Emission Limitations That Apply to Incinerators Before February 7, 2018;
- (b) Table 3 to Subpart DDDD - Operating Limits for Wet Scrubbers;
- (c) Table 4 to Subpart DDDD - Toxic Equivalency Factors;
- (d) Table 5 to Subpart DDDD - Summary of Reporting Requirements;

(e) Table 6 to Subpart DDDD - Emission Limitations That Apply to Incinerators on and After February 7, 2018;

(f) Table 7 to Subpart DDDD - Emission Limitations That Apply to Energy Recovery Units After February 7, 2018;

(g) Table 8 to Subpart DDDD - Emission Limitations That Apply to Waste-Burning Kilns After February 7, 2018; and

(h) Table 9 to Subpart DDDD - Emission Limitations That Apply to Small, Remote Incinerators After February 7, 2018

(G) For purposes of this subpart, the authorities referenced in 40 CFR 60.2542 will not be delegated to state, local, or tribal agencies.

Regulation 61-62.60, Subpart OOOOa, shall be revised as follows:

Subpart OOOOa - “Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015”

The provisions of 40 CFR Part 60 Subpart OOOOa, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart OOOOa			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 81	June 3, 2016	[81 FR 35824]
Revision	Vol. 83	March 12, 2018	[83 FR 10628]

Regulation 61-62.60, Subpart QQQQ, shall be revised as follows:

Subpart QQQQ - “Standards of Performance For New Residential Hydronic Heaters And Forced-Air Furnaces”

The provisions of 40 CFR Part 60 Subpart QQQQ, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart QQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 80	March 16, 2015	[80 FR 13671]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]

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.

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
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]
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]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
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]
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]

40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
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]

Regulation 61-62.63, Subpart CC, shall be revised as follows:

Subpart CC - “National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries”

The provisions of 40 CFR Part 63 Subpart CC, 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.

40 CFR Part 63 Subpart CC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	August 18, 1995	[60 FR 43260]
Revision	Vol. 60	September 27, 1995	[60 FR 49976]
Revision	Vol. 61	February 23, 1996	[61 FR 7051]
Revision	Vol. 61	June 12, 1996	[61 FR 29878]
Revision	Vol. 61	June 28, 1996	[61 FR 33799]
Revision	Vol. 62	February 21, 1997	[62 FR 7938]
Revision	Vol. 63	March 20, 1998	[63 FR 13537]
Revision	Vol. 63	May 18, 1998	[63 FR 27212]
Revision	Vol. 63	June 9, 1998	[63 FR 31361]
Revision	Vol. 63	August 18, 1998	[63 FR 44140]
Revision	Vol. 65	May 8, 2000	[65 FR 26491]
Revision	Vol. 65	July 6, 2000	[65 FR 41594]
Revision	Vol. 66	May 25, 2001	[66 FR 28840]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	June 30, 2010	[75 FR 37730]
Revision	Vol. 76	July 18, 2011	[76 FR 42052]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 81	July 13, 2016	[81 FR 45232]
Revision	Vol. 83	November 26, 2018	[83 FR 60696]

Regulation 61-62.63, Subpart LLL, shall be revised as follows:

Subpart LLL - “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry”

The provisions of 40 CFR Part 63 Subpart LLL, 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.

40 CFR Part 63 Subpart LLL			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 14, 1999	[64 FR 31898]
Revision	Vol. 64	September 30, 1999	[64 FR 52828]
Revision	Vol. 67	April 5, 2002	[67 FR 16614]
Revision	Vol. 67	December 6, 2002	[67 FR 72580]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	December 20, 2006	[71 FR 76518]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 76	January 18, 2011	[76 FR 2832]
Revision	Vol. 78	February 12, 2013	[78 FR 10006]
Revision	Vol. 80	July 27, 2015	[80 FR 44771]
Revision	Vol. 80	September 11, 2015	[80 FR 54728]
Revision	Vol. 81	July 25, 2016	[81 FR 48356]
Revision	Vol. 82	June 23, 2017	[82 FR 28562]
Revision	Vol. 82	August 22, 2017	[82 FR 39671]
Revision	Vol. 83	July 25, 2018	[83 FR 35122]
Revision	Vol. 83	August 3, 2018	[83 FR 38036]

Regulation 61-62.63, Subpart OOO, shall be revised as follows:

Subpart OOO - “National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins”

The provisions of 40 CFR Part 63 Subpart OOO, 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.

40 CFR Part 63 Subpart OOO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	January 20, 2000	[65 FR 3276]
Revision	Vol. 65	February 22, 2000	[65 FR 8768]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 79	October 8, 2014	[79 FR 60898]
Revision	Vol. 83	October 15, 2018	[83 FR 51842]

Regulation 61-62.63, Subpart UUU, shall be revised as follows:

Subpart UUU - “National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units”

The provisions of 40 CFR Part 63 Subpart UUU, 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.

40 CFR Part 63 Subpart UUU			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	April 11, 2002	[67 FR 17762]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 70	February 9, 2005	[70 FR 6930]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 81	July 13, 2016	[81 FR 45232]
Revision	Vol. 83	November 26, 2018	[83 FR 60696]

Regulation 61-62.63, Subpart DDDDD, shall be revised as follows:

Subpart DDDDD - “National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Industrial Boilers and Process Heaters”

The provisions of 40 CFR Part 63, Subpart DDDDD 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.

40 CFR Part 63 Subpart DDDDD			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	December 28, 2005	[70 FR 76918]
Revision	Vol. 71	April 20, 2006	[71 FR 20445]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 76	March 21, 2011	[76 FR 15608]
Revision	Vol. 76	May 18, 2011	[76 FR 28662]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 80	November 20, 2015	[80 FR 72789]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]

Regulation 61-62.63, Subpart UUUUU, shall be revised as follows:

Subpart UUUUU - “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units”

The provisions of 40 CFR Part 63 Subpart UUUUU, 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.

40 CFR Part 63 Subpart UUUUU			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 77	February 16, 2012	[77 FR 9304]
Revision	Vol. 77	April 19, 2012	[77 FR 23399]
Revision	Vol. 77	August 2, 2012	[77 FR 45967]
Revision	Vol. 78	April 24, 2013	[78 FR 24073]
Revision	Vol. 79	November 19, 2014	[79 FR 68777, 68795]
Revision	Vol. 80	March 24, 2015	[80 FR 15510]
Revision	Vol. 81	April 6, 2016	[81 FR 20172]
Revision	Vol. 82	April 6, 2017	[82 FR 16736]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

Purpose: The EPA promulgated amendments to national air quality standards in 2018. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, amends the aforementioned regulations to codify federal amendments to these standards promulgated from January 1, 2018, through December 31, 2018. Additionally, the Department amends R.61-62.60, Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, and Subpart DDDD, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, to clarify the applicability and scope of EPA emission guidelines provisions incorporated by the Department, and to ensure compliance with federal law.

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

Plan for Implementation: The amendments took effect upon approval by the Board of Health and Environmental Control and publication in the State Register. These requirements are in place at the federal level and are currently being implemented. The amendments are implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on the Department's website at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2018 included revised NSPS rules and NESHAPs for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The amendments also include revisions to R.61-62.60, Subparts Cf and DDDD, to clarify the applicability and scope of EPA emission

guidelines provisions incorporated by the Department, and to ensure compliance with federal law, which requires Department implementation of these Subparts.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these revisions. The adopted standards 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 amendments incorporate the revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The amendments 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 provides continued protection of the environment and public health.

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

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

ATTACHMENT B

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

Document No. 4881

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

As of the June 24, 2019, close of the Notice of Proposed Regulation comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
South Carolina Chapters of the Solid Waste Association of North America (SWANA) and the National Waste & Recycling Association (NWRA)	Regulation 61-62.60, Subpart Cf	We agree with the agency's decision to incorporate the Subpart Cf provisions by reference. At the same time EPA promulgated Subpart Cf for existing landfills, it also revised the NSPS at Subpart XXX for new landfills with the intent of maintaining the consistency of the work practice standards imposed under both rules. As such, Subparts Cf and XXX contain nearly identical requirements. With incorporations by reference, SCDHEC can be sure that its Subpart Cf state plan will remain consistent with the requirements for new landfills, while appropriately preserving the provisions of Subpart Cf that are specifically designed for existing sources, such as the applicability provisions and the provisions governing closed landfills. We support the Agency's efforts to maintain that consistency by incorporating Subpart Cf by reference.	The Department acknowledges and appreciates the comment.
SWANA and NWRA	Regulation 61-62.60, Subpart Cf	Since SCDHEC proposes to incorporate Subpart Cf provisions by reference, the agency should adopt language stating that future amendments to Subpart Cf carry through to the State Rule. To ensure consistency with any aspect of Subpart Cf that is incorporated by reference, SCDHEC should specify that such incorporation encompasses any future changes, additions, or revisions to the federal rule. Where statute may prevent such future incorporation, the agency should consider streamlining mechanisms that would allow for expedited revisions to Part 208 if and when changes are promulgated to	The Department conducts an annual review of federal regulations and incorporates applicable changes into state regulations as appropriate. Future amendments to relevant provisions of 40 CFR Part 60, Subpart Cf would be incorporated during that regulatory process.

		Subpart Cf pursuant to the recently proposed changes or changes arising from industry reconsideration petitions.	
SWANA and NWRA	Regulation 61-62.60, Subpart Cf	<p>Any new state regulation and state plan under Subpart Cf should not take effect until EPA has approved the state plan. SCDHEC must also leave the current regulations and state plan “on-the-books,” instead of overwriting them with the new Subpart Cf requirements, so that the current requirements can remain effective while the state awaits EPA approval of the state’s new Subpart Cf rule and plan. Accordingly, SCDHEC should likewise confirm in its revised regulations and new state plan that Subpart Cf requirements will not take effect until EPA approves the state plan. Doing so will eliminate the gap in time between the date that new state and federal regulatory requirements become effective, which would otherwise arise while the state plan is under review at EPA. Subpart Cf itself confirms that compliance is not required until EPA approval. <i>See</i> 40 CFR §§ 60.32f, 60.38f(c) (requiring compliance within 30 months after the report that is due 90 days after EPA approval). SCDHEC should align the deadline for compliance with its new Subpart Cf rules and state plan with the effective date of the EPA approval needed to make those requirements federally enforceable.</p>	Both the preexisting and revised Department Subpart Cf regulations incorporate the federal regulation’s substantive requirements and deadlines for affected landfills. This amendment to Subpart Cf, implemented to clarify the applicability and specific scope of emission guidelines incorporated by reference, makes no change to these existing requirements and deadlines. South Carolina does not currently have an approved state plan for Subpart Cf. Sources must achieve compliance with the Department’s Subpart Cf regulation in accordance with those deadlines set forth in the incorporated provisions. As the commenter notes, these deadlines generally postdate EPA approval of the Department’s state plan.
SWANA and NWRA	Regulation 61-62.60, Subpart Cf	<p>The state regulations should specify an approval process for design plans. Subpart Cf requires each existing landfill to operate pursuant to a state-approved site-specific design plan for the landfill’s unique gas collection and control system (GCCS). However, Subpart Cf does not dictate the process through which states must approve those design plans. Since the lack of timely GCCS design plan approval can leave a landfill in an untenable position, we ask SCDHEC to include a more</p>	The requirements governing submission and approval of design plans are set forth in the incorporated provisions of 40 CFR 60.38f(d), including subparagraphs (d)(5) and (d)(6). Note that the word “Administrator” as used in this section refers to the

		definite procedure in its state regulations for ensuring the review and response to all design plan submittals will be timely. For example, where SCDHEC staff may be unable to review a submitted design plan within a prescribed period of time, we ask SCDHEC to rely upon the required Professional Engineer certification of the design plan as a sufficient basis for approving it. We also ask SCDHEC to expressly indicate in its regulations that any alternatives approved under the prior version of the standards (Subparts Cc and WWW) will also be approved under the new regulations and Subpart Cf state plan, including alternative timelines and higher operating values, so that landfills do not need to seek re-approval of every alternative.	Department for purposes of R.61-62.60, Subpart Cf.
SWANA and NWRA	Regulation 61-62.60, Subpart Cf	<p>SCDHEC should include an Automatic Rescission Clause.</p> <p>In light of the petitions, court order and pending changes to Subparts AAAA and Cf referenced above, there remains some chance that Subpart Cf could be rescinded by EPA or vacated by a court. In similar circumstances, several states have adopted a provision to confirm that federal rules adopted into a state code will no longer be effective under state law if the rules cease to be effective under federal law, and EPA 4 has approved such provisions if written properly. <i>See</i> 81 Fed. Reg. 42,587 (June 30, 2016) (Oklahoma); 81 Fed. Reg. 27,382 (May 6, 2016) (Louisiana); 79 Fed. Reg. 22,772 (Apr. 24, 2014) (Colorado). Specifically, EPA has approved “automatic rescission clauses” if they (1) ensure the public will receive reasonable notice of the rescission, and (2) the rescission will be consistent with EPA’s interpretation of the triggering action.</p> <p>Based on EPA’s prior approvals of automatic rescission clauses, we ask SCDHEC to include the following provision in its new Subpart Cf rule: <i>If federal legislation, a federal court, or a subsequent final agency action</i></p>	The Administrative Procedures Act, S.C. Code Section 1-23-120(H) governs process and applicability in South Carolina for instances of the federal law being vacated, repealed, or no longer having force and effect of law. The Department may employ this process as applicable.

		<i>renders the EPA's Subpart Cf emission guidelines unenforceable in whole or in part, this rule shall become void to the same extent.</i>	
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(x) ACTION/DECISION
() INFORMATION

Date: August 8, 2019

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

From: Bureau of Water

Re: Notice of Proposed Regulation Amending R.61-9, *Water Pollution Control Permits*.

I. Introduction


The Bureau of Water ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-9, *Water Pollution Control Permits*, for publication in the August 23, 2019, *South Carolina State Register* ("State Register"). Legal authority resides in S.C. Code Sections 48-1-10 *et seq.*, which mandates the Department of Health and Environmental Control ("Department") take all action necessary or appropriate to secure to this State the benefits of any and all Federal acts concerning water pollution control. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments for compliance with federal law.

II. Facts

1. R.61-9 implements the National Pollutant Discharge Elimination System ("NPDES") program pursuant to sections 318, 402, and 405 of the federal Clean Water Act ("CWA"). The regulation covers basic Department permitting requirements, procedures for Department processing of permit applications and appeals, requirements for public participation in State permit issuance, and enforcement and related variance proceedings. The Bureau proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules promulgated by the United States Environmental Protection Agency required for state program implementation. These federal regulations include NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019).
2. The Department had a Notice of Drafting published in the April 26, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department did not receive any public comments by May 28, 2019, the close of the public comment period.
3. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2019.

III. Request for Approval

The Bureau of Water respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 23, 2019, *State Register*.


Mike Marcus, Ph.D.
Chief, Bureau of Water


Myra Reece
Director of Environmental Affairs

Attachments:

A. Notice of Proposed Regulation

B. Notice of Drafting published in the April 26, 2019, *State Register*

ATTACHMENT A

STATE REGISTER NOTICE OF PROPOSED REGULATION FOR R.61-9, *Water Pollution Control Permits*

August 8, 2019

Document No. _____

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

61-9. Water Pollution Control Permits

Preamble:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules promulgated by the United States Environmental Protection Agency (“EPA”) required for State program implementation. These federal regulations include National Pollutant Discharge Elimination System (“NPDES”) Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use “sufficiently sensitive” analytical test methods, requires the electronic reporting and sharing of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

Amend 61-9 Table of Contents to add 61-9.3 and 61-9.127.

Add 61-9.3 in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.2 to correct a typographical error in the definition of “Discharge of a pollutant.”

Amend 61-9.122.2 to add, in alphabetical order, definitions for “Pesticide discharges” and “Pesticide residue” in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(a) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(e) in accordance with NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting.

Amend 61-9.122.21(f) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.21(g)(7)(ix) in accordance with NPDES Applications and Program Updates.

Amend the following sections to add an electronic mail requirement in accordance with NPDES Applications and Program Updates:

61-9.122.21(j)(1)(ii)
61-9.122.21(j)(1)(viii)(D)(2)
61-9.122.21(j)(1)(viii)(D)(3)
61-9.122.21(j)(9)
61-9.122.21(q)(2)(i)
61-9.122.21(q)(8)(vi)
61-9.122.21(q)(9)(iii)(D)
61-9.122.21(q)(9)(iii)(E)
61-9.122.21(q)(9)(iv)(A)
61-9.122.21(q)(10)(ii)(A)
61-9.122.21(q)(10)(iii)(K)(1)
61-9.122.21(q)(11)(ii)(A)
61-9.122.21(q)(12)(i)
61-9.122.21(q)(13)

Add 61-9.122.21(j)(1)(ix) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(4)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(5)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(j)(6)(i) in accordance with NPDES Applications and Program Updates.

Amend 61-9.122.21(k)(5)(vi) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.22(e) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.26(b)(15)(i)(C) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.26(g)(1)(iii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.28(b)(2)(i) and (ii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.34(g)(3) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(l)(4)(i) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(l)(6)(i) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(l)(7) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.41(l)(9) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.41(m)(3)(i) and (ii) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(c) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(e)(4) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.42(e)(4)(vi) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.43(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.44(i)(1) to correct a typographical error.

Amend 61-9.122.44(i)(1)(iv) in accordance with NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting.

Amend 61-9.122.44(i)(2) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.122.44(k)(4) in accordance with NPDES Applications and Program Updates.

Add 61-9.122.48(c) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.63(i) in accordance with NPDES Electronic Reporting Rule.

Add 61-9.122.64(c) in accordance with NPDES Electronic Reporting Rule.

Add and reserve 61-9.124.10(c)(2)(iii) in accordance with NPDES Applications and Program Updates.

Add 61-9.124.10(c)(2)(iv) in accordance with NPDES Applications and Program Updates.

Amend 61-9.125.3(a)(1)(ii) in accordance with NPDES Applications and Program Updates.

Add 61-9.127 in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.403.12(e)(1) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.403.12(h) and (i) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.18(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.28(a) in accordance with NPDES Electronic Reporting Rule.

Amend 61-9.503.48(a) in accordance with NPDES Electronic Reporting Rule.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Andrew Edwards of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 23, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its November 7, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish

a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

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

Preliminary Fiscal Impact Statement

The Department expects a significant reduction in cost to the State or its political subdivisions as a result of 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: 61-9, Water Pollution Control Permits

Purpose: Proposed amendments of R.61-9 to adopt portions of three federal Clean Water Act rules issued by the United States Environmental Protection Agency (“EPA”) required for State program implementation.

Legal Authority: 1976 Code Sections 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 proposed amendments. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules issued by the EPA. Adoption of these federal regulations is necessary for State program implementation. The regulations include NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use “sufficiently sensitive” analytical test methods, requires the electronic reporting and sharing of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting.

DETERMINATION OF COSTS AND BENEFITS:

The proposed amendments will save time and resources for the State and regulated permittees by transitioning from paper to electronic reporting. The amendments will also increase data accuracy, which will result in improved compliance to provide better protection of the waters of the State.

UNCERTAINTIES OF ESTIMATES:

The uncertainties associated with the estimation of benefits and burdens are minimal.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizens of the State. The proposed amendments to R.61-9 seek to maintain compliance with federal law, which promotes the protection of water quality and public health.

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

Failure by the Department to incorporate the required revisions in R.61-9 would result in the established NPDES Program to maintain inaccurate representations of the water quality of the State's waters.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

61-9. Water Pollution Control Permits.

Statutory Authority: Sections 48-1-10 et seq. and Sections 48-14-10 et seq.

Amend Table of Contents to read:

Table of Contents

- 61-9.3. Cross-Media Electronic Reporting.
- 61-9.122. The National Pollutant Discharge Elimination System.
- 61-9.124. Procedures for Decision Making.
- 61-9.125. Criteria and Standards for the National Pollutant Discharge Elimination System.
- 61-9.127. NPDES Electronic Reporting.
- 61-9.129. Toxic Pollutant Effluent Standards and Prohibitions.
- 61-9.133. Secondary Treatment Regulation.
- 61-9.403. General Pretreatment Regulations for Existing and New Sources of Pollution.
- 61-9.503. Standards for the Use or Disposal of Sewage Sludge.
- 61-9.504. Standards for the Use or Disposal of Industrial Sludge.
- 61-9.505. Land Application Permits and State Permits.

Add 61-9.3 to read:

61-9.3 CROSS-MEDIA ELECTRONIC REPORTING

Refer to 40 CFR Part 3, which is hereby adopted by reference.

Amend 61-9.122.2. to correct a typographical error in the definition of "Discharge of a pollutant" to read:

"Discharge of a pollutant"

(1) means:

(i) Any addition of any pollutant or combination of pollutants to waters of the State from any point source, or

(ii) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

(2) includes additions of pollutants into waters of the State from: surface runoff which is collected or ~~channelled~~ channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

Amend 61-9.122.2. to add the following definitions in alphabetical order:

“Pesticide discharges to waters of the State from pesticide application” means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to waters of the United States. In the context of this definition of pesticide discharges to waters of the United States from pesticide application, this does not include agricultural storm water discharges and return flows from irrigated agriculture, which are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)).

“Pesticide residue” for the purpose of determining whether an NPDES permit is needed for discharges to waters of the State from pesticide application, means that portion of a pesticide application that is discharged from a point source to waters of the United States and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

Amend 61-9.122.21(a) to read:

(a) Duty to apply.

(1) Any person who discharges or proposes to discharge pollutants or who owns or operates a “sludge-only facility” whose sewage sludge use or disposal practice is regulated by R.61-9.503 and who does not have an effective permit, except persons covered by general permits under section 122.28, excluded under section 122.3, or a user of a privately owned treatment works, unless the Department requires otherwise under section 122.44(m), must submit a complete application to the Department in accordance with this section and R.61-9.124. All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in section 122.23(d).

(2) Application Forms:

(i) All applicants for State-issued permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Applications for State-issued permits must be submitted as follows:

(A) All applicants, other than POTWs, TWTDS, vessels, and pesticide applicators must submit Form 1.

(B) Applicants for new and existing POTWs must submit the information contained in paragraph (j) of this section using Form 2A or other form provided by the Department.

(C) Applicants for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B.

(D) Applicants for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities), must submit Form 2C.

(E) Applicants for new industrial facilities that discharge process wastewater must submit Form 2D.

(F) Applicants for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E.

(G) Applicants for new and existing facilities whose discharge is composed entirely of storm water associated with industrial activity must submit Form 2F, unless exempted by Section 122.26(c)(1)(ii). If the discharge is composed of storm water and non-storm water, the applicant must also submit Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F).

(H) Applicants for new and existing TWTDS, subject to paragraph (c)(2)(i) of this section must submit the application information required by paragraph (q) of this section, using Form 2S or other form provided by the Department.

(ii) The application information required by paragraph (a)(2)(i) of this section may be electronically submitted if such method of submittal is approved by the Department.

(iii) Applicants can obtain copies of these forms by contacting the Department.

(23) Applicants for State-issued permits must use State forms which must require at a minimum the information listed in the appropriate paragraphs of this section.

(34) A person discharging or proposing to discharge wastes into the waters of the State shall promptly make application for and obtain a valid NPDES Permit and, if required, a valid State Construction Permit.

Amend 61-9.122.21(e) to read:

(e) Completeness.

(1) The Department shall not issue a permit before receiving a complete application for a permit except for NPDES general permits. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to its satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(2) A permit application shall not be considered complete if a permitting authority has waived application requirements under paragraphs (j) or (q) of this section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than two hundred ten (210) days prior to permit expiration and EPA has not disapproved the waiver application one hundred eighty-one (181) days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

(3) Except as specified in 122.21(e)(3)(ii), a permit application shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O.

(i) For the purposes of this requirement, a method approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O is “sufficiently sensitive” when:

(A) The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or

(B) The method ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

(C) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Note to paragraph (e)(3)(i):

Consistent with 40 CFR Part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the applicant should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.21(e)(3)(i). Where no other EPA-approved methods exist, the applicant should select a method consistent with 40 CFR 122.21(e)(3)(ii).

(ii) When there is no analytical method that has been approved under 40 CFR Part 136, required under 40 CFR chapter I, subchapter N or O, and is not otherwise required by the Department, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution may be considered when assessing the performance of the method.

~~(34)~~ The Department, at its discretion, or upon request of the Regional Administrator, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in a Refuse Act permit application, before processing the application or issuing or denying the issuance of a permit.

~~(45)~~ The Department may take enforcement action as prescribed by the State law or this regulation against any person who fails to file a complete application, if deficiencies are not corrected or complete information is not supplied within sixty (60) days to the Department following its request.

Amend 61-9.122.21(f) to read:

(f) Information requirements. All applicants for NPDES permits, other than POTW and other TWTDS, vessels, and pesticide applicators, must provide the following information to the Department, using the application form provided by the Department. Additional information required of applicants is set forth in paragraphs (g) through (k) of this section.

(1) The activities conducted by the applicant which require it to obtain an NPDES permit.

- (2) Name, mailing address, and location of the facility for which the application is submitted.
- (3) Up to four SIC codes and up to four NAICS codes which best reflect the principal products or services provided by the facility.
- (4) The operator's name, address, telephone number, electronic mail address, ownership status, and status as Federal, State, private, public, or other entity.
- (5) Whether the facility is located on Indian lands.
- (6) A listing of all permits or construction approvals received or applied for under any of the following programs:
- (i) Hazardous Waste Management program under RCRA.
 - (ii) UIC program under SDWA.
 - (iii) NPDES program under CWA.
 - (iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.
 - (v) Nonattainment program under the Clean Air Act.
 - (vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.
 - (vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.
 - (viii) Dredge or fill permits under section 404 of CWA.
 - (ix) Other relevant environmental permits, including State permits.
- (7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
- (8) A brief description of the nature of the business, activity, or type project.
- (9) An indication of whether the facility uses cooling water and the source of the cooling water.
- (10) An indication of whether the facility is requesting any of the variances at Section 122.21(m) if known at the time of application.

Add 61-9.122.21(g)(7)(ix) to read:

(ix) Where quantitative data are required in paragraphs (g)(7)(i) through (viii) of this section, existing data may be used, if available, in lieu of sampling done solely for the purpose of the application,

provided that: All data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4.5) years prior to submission; all data are representative of the discharge; and all available representative data are considered in the values reported.

Amend 61-9.122.21(j)(1)(ii) to read:

(ii) Applicant information. Name, mailing address, ~~and~~ telephone number, and electronic mail address of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

Amend 61-9.122.21(j)(1)(viii)(D)(2) to read:

(2) The name, mailing address, contact person, ~~and~~ phone number, and electronic mail address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

Amend 61-9.122.21(j)(1)(viii)(D)(3) to read:

(3) The name, mailing address, contact person, phone number, electronic mail address, and NPDES permit number (if any) of the receiving facility; and

Add 61-9.122.21(j)(1)(ix) to read:

_____ (ix) An indication of whether the applicant is operating under or requesting to operate under a variance as specified at Section 122.21(n), if known at the time of application.

Amend 61-9.122.21(j)(4)(i) to read:

(i) As provided in paragraphs (j)(4)(ii) through (x) of this section, all applicants must submit to the Department effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the ~~United States State~~, except for CSOs. The Department may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The Department may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than twenty-four (24) months after the commencement of discharge;

Amend 61-9.122.21(j)(5)(i) to read:

(i) All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than twenty-four (24) months after the commencement of discharge.

Amend 61-9.122.21(j)(6)(i) to read:

(i) Number of significant industrial users (SIU) and non-significant categorical industrial users (~~CIU~~)(NSCIUs), as defined at 40 CFR 403.3(v), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW; and

Amend 61-9.122.21(j)(9) to read:

(9) Contractors. All applicants must provide the name, mailing address, telephone number, electronic

mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility; and

Amend 61-9.122.21(k)(5)(vi) to read:

(vi) No later than ~~two years~~ twenty-four (24) months after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of NPDES application Form ~~2e2C~~ (see section 122.21(g)). However, the applicant need not complete those portions of Item V requiring tests which ~~he has~~ have already been performed and reported under the discharge monitoring requirements of ~~his~~ the NPDES permit.

Amend 61-9.122.21(q)(2)(i) to read:

(i) The name, mailing address, ~~and~~ telephone number, and electronic mail address of the applicant; and

Amend 61-9.122.21(q)(8)(vi)(A) to read:

(A) The name ~~and~~, mailing address, and electronic mail address of the receiving facility;

Amend 61-9.122.21(q)(9)(iii)(D) to read:

(D) The name, mailing address, ~~and~~ telephone number, and electronic mail address of the site owner, if different from the applicant;

Amend 61-9.122.21(q)(9)(iii)(E) to read:

(E) The name, mailing address, ~~and~~ telephone number, and electronic mail address of the person who applies sewage sludge to the site, if different from the applicant;

Amend 61-9.122.21(q)(9)(iv)(A) to read:

(A) Whether the applicant has contacted the permitting authority in the State where the bulk sewage sludge subject to section 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to section 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name ~~and~~, phone number, and electronic mail address if available, of a contact person at the permitting authority;

Amend 61-9.122.21(q)(10)(ii)(A) to read:

(A) The site name or number, contact person, mailing address, ~~and~~ telephone number, and electronic mail address for the surface disposal site and

Amend 61-9.122.21(q)(10)(iii)(K)(I) to read:

(I) The name, contact person, ~~and~~ mailing address, and electronic mail address of the facility and

Amend 61-9.122.21(q)(11)(ii)(A) to read:

(A) The name and/or number, contact person, mailing address, ~~and~~ telephone number, and

electronic mail address of the sewage sludge incinerator and

Amend 61-9.122.21(q)(12)(i) to read:

(i) The name, contact person, mailing address, electronic mail address, location, and all applicable permit numbers of the MSWLF;

Amend 61-9.122.21(q)(13) to read:

(13) Contractors. All applicants must provide the name, mailing address, telephone number, electronic mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal.

Add 61-9.122.22(e) to read:

(e) Electronic Reporting. If documents described in paragraph (a) or (b) of this section are submitted electronically by or on behalf of the NPDES-regulated facility, any person providing the electronic signature for such documents shall meet all relevant requirements of this section, and shall ensure that all of the relevant requirements of 40 CFR Part 3 (including, in all cases, subpart D to Part 3) (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission.

Add 61-9.122.26(b)(15)(i)(C) to read:

(C) As of December 21, 2020, all certifications submitted in compliance with paragraphs (b)(15)(i)(A) and (B) of this section must be submitted electronically by the owner or operator to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by State law.

Amend 61-9.122.26(g)(1)(iii) to read:

(iii) Submit the signed certification to the NPDES permitting authority once every five (5) years. As of December 21, 2020, all certifications submitted in compliance with this section must be submitted electronically by the owner or operator to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by State law.

Amend 61-9.122.28(b)(2)(i) and (ii) to read:

(i) Except as provided in paragraphs (b)(2)(v) and (b)(2)(vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Department a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with paragraph (b)(2)(v) of this section, contains a provision that a notice of intent is not required or the Department notifies

a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi) of this section. A complete and timely notice of intent (NOI) to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of sections 122.6, 122.21 and 122.26. As of December 21, 2020, all notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, discharger (or treatment works treating domestic sewage) may be required to report electronically if specified by a particular permit or if required to do so by State law.

(ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s), and other required data elements as identified in appendix A to 40 CFR Part 127. General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on Federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with section 122.22. Notices of intent for coverage under a general permit for concentrated animal feeding operations (CAFO) must include the information specified in section 122.21(i)(1), including a topographic map.

Amend 61-9.122.34(g)(3) to read:

(3) Reporting. Unless you are relying on another entity to satisfy your NPDES permit obligations under section 122.35(a), you must submit annual reports to the Department for your first permit term. For subsequent permit terms, you must submit reports in year two and four unless the Department requires more frequent reports. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the small MS4 to the Department as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the owner, operator, or the duly authorized representative of the small MS4 may be required to report electronically if specified by a particular permit or if required to do so by State law. Your report must include:

Amend 61-9.122.41(l) to read:

(~~l~~) Reporting requirements.

Amend 61-9.122.41(l)(4)(i) to read:

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016, all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

Amend 61-9.122.41(l)(6)(i) to read:

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue-; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery), as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by State law. The Department may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

Amend 61-9.122.41(l)(7) to read:

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs ~~(4)~~(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph ~~(4)~~(6) of this section. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph (l)(6) and the applicable required data in appendix A to 40 CFR Part 127. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by State law. The Department may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

Add 61-9.122.41(l)(9) to read:

(9) Identification of the initial recipient for NPDES electronic reporting data. The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in appendix A to 40 CFR Part 127) to the appropriate initial recipient, as determined by EPA, and as defined in Section 127.2(b) of this chapter. EPA will identify and publish the list of initial recipients on its website and in the Federal Register, by State and by NPDES data group [see Section 127.2(c) of this chapter]. EPA will update and maintain this listing.

Amend 61-9.122.41(m)(3)(i) and (ii) to read:

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of the bypass. As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (H)(6) of this section (24-hour notice). As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

Amend 61-9.122.42(c) to read:

(c) Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department under section 122.26(a)(1)(v) of this regulation must submit an annual report by the anniversary of the date of the issuance of the permit for such system. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically if specified by a particular permit or if required to do so by State law. The report shall include:

Amend 61-9.122.42(e)(4) to read:

(4) Annual reporting requirements for CAFO. The permittee must submit an annual report to the Department. As of December 21, 2020, all annual reports submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by State law. The annual report must include:

Amend 61-9.122.42(e)(4)(vi) to read:

(vi) Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including date, time, for each discharge, the date of discovery, duration of discharge, and approximate volume; and

Amend 61-9.122.43(a) to read:

(a) In addition to conditions required in all permits (sections 122.41 and 122.42), the Department shall

establish conditions, as required on a case-by-case basis, to provide for and ~~assure~~ensure compliance with all applicable requirements of CWA and PCA and regulations. These shall include conditions under section 122.46 (duration of permits), section 122.47(a) (schedules of compliance), and section 122.48 (monitoring), and electronic reporting requirements of 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation) and 40 CFR Part 127 (NPDES Electronic Reporting).

Amend 61-9.122.44(i)(1) to read:

(1) To ~~assure~~ensure compliance with the permit and protection of the environment, requirements to monitor:

Amend 61-9.122.44(i)(1)(iv) to read:

(iv) According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 for the analyses of pollutants ~~having approved methods under that part, and according to a test procedure specified in the permit for pollutants with no approved methods or pollutant parameters or required under 40 CFR chapter I, subchapter N or O.~~

(A) For the purposes of this paragraph, a method is “sufficiently sensitive” when:

(1) The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

(2) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Note to paragraph (i)(1)(iv)(A):

Consistent with 40 CFR Part 136, applicants or permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant or permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the Department should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.44(i)(1)(iv)(A). Where no other EPA-approved methods exist, the Department should select a method consistent with Section 122.44(i)(1)(iv)(B).

(B) In the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136 or methods are not otherwise required under 40 CFR chapter I, subchapter N or O, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters.

Amend 61-9.122.44(i)(2) to read:

(2) Except as provided in paragraphs (i)(4) and (i)(5) of this section, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge but in no case less than once a year. For sewage sludge use or disposal practices, requirements to monitor and report results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in R.61-9.503 (where applicable) but in no case less than once a year. All results must be electronically reported in compliance with 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR

Part 127.

Amend 61-9.122.44(k)(4) to read:

(4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

Note to paragraph (k)(4):

Additional technical information on BMPs, and the elements of BMPs, is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498); Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482); Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550; ERIC No. W139; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA 833/R-92-002, NTIS No. PB 94-133782; ERIC No. W492. These and other EPA guidance documents can be obtained through the National Service Center for Environmental Publications (NSCEP) at <http://www.epa.gov/nscep>. In addition, States may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory, regulatory effect by virtue of their listing in this note.

Add 61-9.122.48(c) to read:

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation), Section 122.44, and 40 CFR Part 127 (NPDES Electronic Reporting). Reporting shall be no less frequent than specified in Section 122.44. EPA will maintain the start dates for the electronic reporting of monitoring results for each State on its website.

Add 61-9.122.63(i) to read:

(i) Require electronic reporting requirements (to replace paper reporting requirements) including those specified in 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation) and 40 CFR Part 127 (NPDES Electronic Reporting).

Add 61-9.122.64 (c) to read:

(c) Permittees that wish to terminate their permit must submit a Notice of Termination (NOT) to their permitting authority. If requesting expedited permit termination procedures, a permittee must certify in the NOT that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. As of December 21, 2020, all NOTs submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by State law.

Add and reserve 61-9.124.10(c)(2)(iii) to read:

_____ (iii) [Reserved]

Add 61-9.124.10(c)(2)(iv) to read:

_____ (iv) For NPDES major permits and NPDES general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, as described in paragraph (c)(2)(i) of this section, the Department may publish all notices of activities described in paragraph (a)(1) of this section to the Department's public website. If the Department selects this option for a draft permit, as defined in Section 122.2, in addition to meeting the requirements in paragraph (d) of this section, the Department must post the draft permit and fact sheet on the website for the duration of the public comment period.

Note to paragraph (c)(2)(iv):

The Department is encouraged to ensure that the method(s) of public notice effectively informs all interested communities and allows access to the permitting process for those seeking to participate.

Amend 61-9.125.3(a)(1)(ii) to read:

(ii) ~~The best practicable waste treatment technology; and~~ [Reserved]

Add 61-9.127 to read:

61-9.127 NPDES ELECTRONIC REPORTING

Refer to 40 CFR Part 127, which is hereby adopted by reference.

Amend 61-9.403.12(e)(1) to read:

(1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in section 403.3(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Department, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of this section, except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted. For Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by State law.

Amend 61-9.403.12(h) and (i) to read:

(h) Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards. The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment Standards. Significant Non-categorical Industrial Users must submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in Part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User. For Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by State law.

(i) Annual POTW reports. POTWs with approved Pretreatment Programs shall provide the Department with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one (1) year after approval of the POTW's Pretreatment Program, and at least annually thereafter, and shall include, at a minimum, ~~the following:~~ the applicable required data in appendix A to 40 CFR Part 127. The report required by this section must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Department and any other relevant information requested by the Department. As of December 21, 2020, all annual reports submitted in compliance with this section must be submitted electronically by the POTW Pretreatment Program to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Department may also require POTW Pretreatment Programs to electronically submit annual reports under this section if specified by a particular permit or if required to do so by State law.

Amend 61-9.503.18(a) to read:

(a) Any generator of sewage sludge that is applied to the land, any person who prepares sewage sludge that is applied to the land, or any person who applies sewage sludge to the land, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit ~~the following information to the Department:~~ a report on February 19 of each year. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

(1) The information in section 503.17(a), except the information in section 503.17(a)(3)(ii), section

503.17(a)(4)(ii) and in section 503.17(a)(5)(ii), for the appropriate requirements on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year.

(2) The information in section 503.17(a)(5)(ii)(A) through (a)(5)(ii)(G) on or before February 19th of each year, for the period of January 1 through December 31 of the previous calendar year when 90 percent or more of any of the cumulative pollutant loading rates in Table 2 of section 503.13 is reached at a land application site.

Amend 61-9.503.28(a) to read:

(a) Any generator of sewage sludge disposed of at a surface disposal site, any person who prepares sewage sludge that is disposed of at a surface disposal site, or any person who disposes of sewage sludge at a surface disposal site, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit a report with the information in section 503.27(a) to the Department on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

Amend 61-9.503.48(a) to read:

(a) Any generator of sewage sludge when sewage sludge is incinerated, any person who prepares sewage sludge that is incinerated, or any person who incinerates sewage sludge, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 people or greater shall submit the information in section 503.47(b) through section 503.47(h) to the Department on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year. Reports required by this regulation do not exclude any person from submitting reports required by other Department regulations or by other applicable EPA regulations. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

ATTACHMENT B

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-9, Water Pollution Control Permits. Interested persons may submit comment(s) on the proposed amendments to Andrew Edwards of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on May 28, 2019, the close of the draft comment period.

Synopsis:

The Department proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules issued by the United States Environmental Protection Agency (EPA) required for state program implementation. EPA codified final federal regulations for National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule (80 FR 64063, October 22, 2015), and National Pollutant Discharge Elimination System (NPDES): Applications and Program Updates (84 FR 3324, February 12, 2019).

The Department may also include stylistic changes supporting this federal adoption such as corrections for clarity and readability, grammar, punctuation, references, codification, and improvement of regulation text.

Pursuant to the Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), these proposed amendments are exempt from General Assembly review because they are for compliance with federal law.

(x) ACTION/DECISION
() INFORMATION

Date: August 8, 2019

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

From: Bureau of Water

Re: Notice of Proposed Regulation Amending R.61-68, *Water Classifications and Standards*.

I. Introduction

The Bureau of Water ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-68, *Water Classifications and Standards*, for publication in the August 23, 2019, *South Carolina State Register* ("State Register"). Legal authority resides in 1976 Code Sections 48-1-10 et seq., which provides that the Department of Health and Environmental Control ("Department") shall promulgate regulations to implement the South Carolina Pollution Control Act. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

II. Facts

1. R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected, general rules and water quality criteria to protect classified and existing water uses, and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the federal Clean Water Act ("CWA") requires South Carolina's water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency's updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA.

2. The Bureau proposes amending R.61-68 to adopt these criteria. The Bureau proposes adopting a revised standard for aquatic life ambient water quality criteria for cadmium, a revised recreational water quality criteria for enterococci, a standard for aquatic life ambient water quality criteria for carbaryl, and a standard for human health recreational ambient water quality criteria for microcystins and cylindrospermopsin to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA. The Bureau also proposes stylistic changes for overall improvement of the text of the regulation.

3. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B.


4. The Department received public comments from four parties by March 25, 2019, the close of the public comment period. Attachment C presents a summary of these public comments received and Department responses.

5. The Department met with stakeholders to discuss the Notice of Drafting and to receive stakeholder input on April 23, 2019, and on May 21, 2019.

6. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2019.

III. Request for Approval

The Bureau of Water respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 23, 2019, *State Register*.


Mike Marcus, Ph.D.
Chief, Bureau of Water


Myra Reece
Director of Environmental Affairs

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the February 22, 2019, *State Register*
- C. Summary of Public Comments Received and Department Responses

ATTACHMENT A

STATE REGISTER NOTICE OF PROPOSED REGULATION FOR R.61-68, *Water Classifications and Standards*

August 8, 2019

Document No. _____

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

61-68. Water Classifications and Standards.

Preamble:

R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected, general rules and water quality criteria to protect classified and existing water uses, and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the federal Clean Water Act (“CWA”) requires South Carolina’s water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency’s updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA. The Department of Health and Environmental Control (“Department”) proposes amending R.61-68 to adopt these criteria the Department deemed necessary to comply with federal regulatory recommendations and revisions. The Department proposes to adopt a revised standard for aquatic life ambient water quality criteria for cadmium, a revised recreational water quality criteria for enterococci, a standard for aquatic life ambient water quality criteria for carbaryl, and a standard for human health recreational ambient water quality criteria for microcystins and cylindrospermopsin to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA. The Department proposes stylistic changes for overall improvement of the text of the regulation. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

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

Section-by-Section Discussion of Proposed Amendments:

Amend 61-68.E.14.c(10) to change the daily maximum enterococci NPDES permit effluent limitation from 501 MPN/100 ml to 104 MPN/100 ml for the protection of uses in Class SB saltwaters.

Add 61-68.E.14.d(7) to include human health recreational ambient water quality criteria for microcystins in freshwater, and to specify when the Department would issue a swimming advisory.

Add 61-68.E.14.d(8) to specify when the Department would list a surface waterbody as impaired for recreational uses due to microcystins.

Add 61-68.E.14.d(9) to include human health recreational ambient water quality criteria for cylindrospermopsin in freshwater, and to specify when the Department would issue a swimming advisory.

Add 61-68.E.14.d(10) to specify when the Department would list a surface waterbody as impaired for recreational uses due to cylindrospermopsin.

Amend 61-68.G.9. and 10. to include standards for both microcystins and cylindrospermopsin to protect the uses of Natural and Put, Grow, and Take trout waters and Freshwaters.

Amend 61-68.G.13. to correct a typographical error and to change the daily maximum enterococci standard from 501 MPN/100 ml to 104 MPN/100 ml for the protection of uses in Class SB saltwaters.

Amend 61-68 Appendix: Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health “Priority Toxic Pollutants” table and footnotes to correct typographical errors and to adopt a revised standard for aquatic life ambient water quality criteria for cadmium.

Amend 61-68 Appendix: Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health “Priority Toxic Pollutants” table to correct a typographical error for Dimethyl Phthalate.

Amend 61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, “Non Priority Pollutants” table to adopt a standard for aquatic life ambient water quality criteria for carbaryl.

Amend 61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, “Attachment 2 – Parameters for Calculating Hardness-Dependent Criteria” to adopt a revised standard for aquatic life ambient water quality criteria for cadmium and to add a footnote.

Amend 61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, to add “Attachment 4 - Calculation of the Sample Specific Freshwater Acute and Chronic Criterion for Metals.”

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Andrew Edwards, Water Quality Standards Coordinator of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 23, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 7, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

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

Preliminary Fiscal Impact Statement

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by 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: 61-68, Water Classifications and Standards

Purpose: Proposed amendments of R.61-68, as the triennial review, will clarify, strengthen, and improve the overall quality of the existing regulation and make appropriate revisions of the State's water quality standards in accordance with 33 U.S.C. Section 303(c)(2)(B) of the federal CWA.

Legal Authority: 1976 Code Sections 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 this proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

Section 303(c)(2)(B) of the federal CWA requires South Carolina's water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency's updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA. The Department proposes amending R.61-68 to adopt these criteria as the Department deemed necessary to comply with federal regulatory recommendations and revisions.

DETERMINATION OF COSTS AND BENEFITS:

Existing Department staff and resources will be utilized to implement these amendments to the regulation. No anticipated additional cost will be incurred by the State if the revisions are implemented, and no additional State funding is being requested.

Overall cost impact to the State's political subdivisions and regulated community is not likely to be significant. Existing standards would have incurred similar cost. Furthermore, standards required under the amendments will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

The uncertainties associated with the estimation of benefits and burdens are minimal to moderate, due to possible differences in the extent to which Municipal Separate Storm Sewer Systems ("MS4s") currently meet the lower standard.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizens of the State. The proposed amendments to R.61-68 seek to promote and protect aquatic life and human health by the regulation of pollutants into waters of the State.

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

Failure by the Department to incorporate appropriately protective water quality standards in R.61-68 that are the basis for issuance of National Pollutant Discharge Elimination System (“NPDES”) permits, stormwater permits, wasteload and load allocations, groundwater remediation plans, and multiple other program areas will lead to contamination of the waters of the State with detrimental effects on the health of flora and fauna in the State, as well as the citizens of South Carolina.

Statement of Rationale:

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

R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected; general rules and water quality criteria to protect classified and existing water uses; and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the federal CWA requires South Carolina’s water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency’s updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA. The Department proposes amending R.61-68 to adopt these criteria the Department deemed necessary to comply with federal regulatory recommendations and revisions. The Department proposes to adopt a revised standard for aquatic life ambient water quality criteria for cadmium, a revised recreational water quality criteria for enterococci, a standard for aquatic life ambient water quality criteria for carbaryl, and a standard for human health recreational ambient water quality criteria for microcystins and cylindrospermopsin to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

61-68. Water Classifications and Standards.

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

Amend 61-68.E.14.c(10) to read:

(10) In order to protect recreational uses in Class SB saltwaters of the State, NPDES permit effluent limitations shall be specified as indicated below:

i. Monthly Average (enterococci)	35 MPN per 100 mL
ii. Daily Maximum <u>(enterococci)</u>	(enterococci) 504 <u>104</u> MPN per 100 mL (see c(12) below)

iii. Class SA recreational daily maximum and/or shellfish protection	Class SA daily maximum (see c(9)ii. above) recreational use requirements for enterococci and/or Class SFH requirements (see c(11)i. and c(11)ii. below) for fecal coliform may be specified (in addition to the limits above) for the protection of upstream and/or downstream waters (regardless of their individual classification).
iv. Municipal separate storm sewer systems	For municipal separate storm sewer systems (as described in R.61-9.122.26.a.) compliance with the bacterial standards shall be determined in accordance with c(13) below.
v. Protection of upstream and/or downstream waters	Permit limitations may include (in addition to the requirements listed in c(10)i. and c(10)ii. above) one or more bacterial limitations for fecal coliform, E. coli and /or enterococci to protect both uses in the specific receiving water body and also to protect any upstream or downstream uses that may be required. If more than one bacterial limit is required, the conditions associated with each section above or below shall apply independently regardless of the water classification at the point of discharge.
vi. Class ORW or ONRW protection	For Class ORW or ONRW waters, the bacterial requirements shall be those applicable to the classification of the waterbody immediately prior to reclassification to either ORW or ONRW, including consideration of natural conditions. See G.5 and G.7 for prohibitions.

Add 61-68.E.14.d(7) to read:

(7) The assessment of total microcystins for purposes of issuing swimming advisories for freshwater recreational use will be based on the single sample maximum of 8 µg/L. Advisories will remain in effect until resample results indicate the toxin concentration falls below 8 µg/L.

Add 61-68.E.14.d(8) to read:

(8) The assessment of total microcystins for purposes of Section 303(d) listing determinations for recreational uses shall be based on no more than three (3) swimming advisories in a three (3)-year assessment period.

Add 61-68.E.14.d(9) to read:

(9) The assessment of cylindrospermopsin for purposes of issuing swimming advisories for freshwater recreational use will be based on the single sample maximum of 15 µg/L. Advisories will remain in effect until resample results indicate the toxin concentration falls below 15 µg/L.

Add 61-68.E.14.d(10) to read:

(10) The assessment of cylindrospermopsin for purposes of Section 303(d) listing determinations for recreational uses shall be based on no more than three (3) swimming advisories in a three (3)-year assessment period.

Amend 61-68.G.9. and 10. to read:

9. The standards below protect the uses of Natural and Put, Grow, and Take trout waters.

Quality Standards for Trout Waters	
ITEMS	STANDARDS
a. Garbage, cinders, ashes, oils, sludge, or other refuse	None allowed.
b. Treated wastes, toxic wastes, deleterious substances, colored, or other wastes except those given in a. above.	None alone or in combination with other substances or wastes in sufficient amounts to be injurious to reproducing trout populations in natural waters or stocked populations in put, grow, and take waters, or in any manner adversely affecting the taste, color, odor, or sanitary condition thereof or impairing the waters for any other best usage as determined for the specific waters which are assigned to this class.
c. Toxic pollutants listed in the appendix.	As prescribed in Section E of this regulation.
d. Stormwater, and other nonpoint source runoff, including that from agricultural uses, or permitted discharge from aquatic farms, concentrated aquatic animal production facilities, and uncontaminated groundwater from mining.	Allowed if water quality necessary for existing and classified uses shall be maintained and protected consistent with Antidegradation Rules.
e. Dissolved oxygen.	Not less than 6 mg/4L.
f. E. coli	Not to exceed a geometric mean of 126/100 mL based on at least four samples collected from a given sampling site over a 30 day period, nor shall a single sample maximum exceed 349/100 mL.
g. pH.	Between 6.0 and 8.0.
h. Temperature.	Not to vary from levels existing under natural conditions, unless determined that some other temperature shall protect the classified uses.
i. Turbidity.	Not to exceed 10 Nephelometric Turbidity Units (NTUs) or 10% above natural conditions, provided uses are maintained.
<u>j. Total microcystins</u>	<u>Not to exceed 8 µg/L. For freshwater primary contact recreational use notifications and advisories samples shall not exceed 8 µg/L.</u>
<u>k. Cylindrospermopsin</u>	<u>Not to exceed 15 µg/L. For freshwater primary contact recreational use notifications and advisories samples shall not exceed 15 µg/L.</u>

10. Freshwaters are freshwaters suitable for primary and secondary contact recreation and as a source for drinking water supply after conventional treatment in accordance with the requirements of the Department. Suitable for fishing and the survival and propagation of a balanced indigenous aquatic community of fauna and flora. Suitable also for industrial and agricultural uses.

Quality Standards for Freshwaters	
ITEMS	STANDARDS
a. Garbage, cinders, ashes, oils, sludge, or other refuse	None allowed.
b. Treated wastes, toxic wastes, deleterious substances, colored, or other wastes except those given in a. above.	None alone or in combination with other substances or wastes in sufficient amounts to make the waters unsafe or unsuitable for primary contact recreation or to impair the waters for any other best usage as determined for the specific waters which are assigned to this class.
c. Toxic pollutants listed in the appendix.	As prescribed in Section E of this regulation.
d. Stormwater, and other nonpoint source runoff, including that from agricultural uses, or permitted discharge from aquatic farms, concentrated aquatic animal production facilities, and uncontaminated groundwater from mining.	Allowed if water quality necessary for existing and classified uses shall be maintained and protected consistent with Antidegradation Rules.
e. Dissolved oxygen.	Daily average not less than 5.0 mg/4L with a low of 4.0 mg/4L.
f. E. coli	Not to exceed a geometric mean of 126/100 mL based on at least four samples collected from a given sampling site over a 30 day period, nor shall a single sample maximum exceed 349/100 mL.
g. pH.	Between 6.0 and 8.5.
h. Temperature.	As prescribed in E.12. of this regulation.
i. Turbidity. Except for Lakes.	Not to exceed 50 NTUs provided existing uses are maintained.
Lakes only.	Not to exceed 25 NTUs provided existing uses are maintained.
j. <u>Total microcystins</u>	<u>Not to exceed 8 µg/L. For freshwater primary contact recreational use notifications and advisories samples shall not exceed 8 µg/L.</u>
k. <u>Cylindrospermopsin</u>	<u>Not to exceed 15 µg/L. For freshwater primary contact recreational use notifications and advisories samples shall not exceed 15 µg/L.</u>

Amend 61-68.G.13. to read:

13. Class SB are tidal saltwaters suitable for primary and secondary contact recreation, crabbing, and fishing, except harvesting of clams, mussels, or oysters for market purposes ~~or human consumption~~ or human consumption. Also suitable for the survival and propagation of a balanced indigenous aquatic community of marine fauna and flora.

Quality Standards for Class SB Waters	
ITEMS	STANDARDS
a. Garbage, cinders, ashes, oils, sludge, or other refuse	None allowed.
b. Treated wastes, toxic wastes, deleterious substances, colored, or other wastes except those given in a. above.	None alone or in combination with other substances or wastes in sufficient amounts to make the waters unsafe or unsuitable for primary contact recreation or to impair the waters for any other best usage as determined for the specific waters which are assigned to this class.
c. Toxic pollutants listed in the appendix.	As prescribed in Section E of this regulation.
d. Stormwater, and other nonpoint source runoff, including that from agricultural uses, or permitted discharge from aquatic farms, and concentrated aquatic animal production facilities.	Allowed if water quality necessary for existing and classified uses shall be maintained and protected consistent with Antidegradation Rules.
e. Dissolved oxygen.	Not less than 4.0 mg/4L.
f. Enterococci.	Not to exceed a geometric mean of 35/100 ml based on at least four samples collected from a given sampling site over a 30 day period; nor shall a single sample maximum exceed 50 104/100 mL. Additionally, for beach monitoring and notification activities for CWA Section 406 only, samples shall not exceed a single sample maximum of 50 104/100 mL.
g. pH.	Shall not vary more than one-half of a pH unit above or below that of effluent-free waters in the same geological area having a similar total salinity, alkalinity and temperature, but not lower than 6.5 or above 8.5
h. Temperature.	As prescribed in E.12. of this regulation.
i. Turbidity.	Not to exceed 25 NTUs provided existing uses are maintained.

j. The Department shall protect existing shellfish harvesting uses found in Class SB waters consistent with the antidegradation rule, Section D.1.a. of this regulation and shall establish permit limits in accordance with Section E.14.c(8), (9), (10), and (11) and Section G.11.f. of this regulation.

Amend R.61-68 Appendix: Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health “Priority Toxic Pollutants” table and footnotes to read:

APPENDIX: WATER QUALITY NUMERIC CRITERIA FOR THE PROTECTION OF AQUATIC LIFE AND HUMAN HEALTH

This appendix contains three charts (priority pollutants, nonpriority pollutants, and organoleptic effects) of numeric criteria for the protection of human health and aquatic life. The appendix also contains three attachments which address hardness conversions and application of ammonia criteria. Footnotes specific to each chart follow the chart. General footnotes pertaining to all are at the end of the charts prior to the attachments. The numeric criteria developed and published by EPA are hereby incorporated into this regulation. Please refer to the text of the regulation for other general information and specifications in applying these numeric criteria.

PRIORITY TOXIC POLLUTANTS

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
1	Antimony	7440360					5.6 B, ee	640 B, ee	6 ee	65FR66443 SDWA
2	Arsenic	7440382	340 A, D, K	150 A, D, K	69 A, D, Y	36 A, D, Y	10 C	10 C	10 C	65FR31682 57FR60848 SDWA
3	Beryllium	7440417					J, ee	J, ee	4 ee	65FR31682 SDWA
4	Cadmium	7440439	0.530.49 D, E, K, Y	0.100.25 D, E, K, Y	4333 D, Y	9.37.9 D, Y	J, ee	J, ee	5 ee	65FR31682 EPA820/B-96-001 65FR19176 SDWA
5a	Chromium III	16065831	580 D, E, K	28 D, E, K			J, ee	J, ee	100 ee Total	EPA820/B-96-001 65FR31682 SDWA
5b	Chromium VI	18540299	16 D, K	11 D, K	1,100 D, Y	50 D, Y	J, ee	J, ee	100 ee Total	65FR31682 SDWA
6	Copper	7440508	3.8 D, E, K, Z, ll	2.9 D, E, K, Z, ll	5.8 D, Z, Y, cc	3.7 D, Z, Y, cc	1,300 T, ee			65FR31682

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
7	Lead	7439921	14 D, E, Y	0.54 D, E, Y	220 D, Y	8.5 D, Y				65FR31682
8	Mercury	7439976	1.6 D, K, dd	0.91 D, K, dd	2.1 D, bb, dd	1.1 D, bb, dd	0.050 B, ee	0.051 B, ee	2 ee	65FR31682 SDWA
9	Nickel	7440020	150 D, E, K	16 D, E, K	75 D, Y	8.3 D, Y	610 B, ee	4, 600 B, ee		65FR31682
10	Selenium	7782492	L, Q, S	5.0 S	290 D, aa	71 D, aa	170 Z, ee	4,200 ee	50 ee	65FR31682 65FR66443 SDWA
11	Silver	7440224	0.37 D, E, G		2.3 D, G					65FR31682
12	Thallium	7440280					0.24	0.47	2 ee	68FR75510 SDWA
13	Zinc	7440666	37 D, E, K	37 D, E, K	95 D, Y	86 D, Y	7,400 T, ee	26,000 T, ee		65FR31682 65FR66443
14	Cyanide	57125	22 K, P	5.2 K, P	1 P, Y	1 P, Y	140 ee, jj	140 ee, jj	200 ee	EPA820/B-96-001 57FR60848 68FR75510 SDWA
15	Asbestos	1332214							7 million fibers/L I, ee	57FR60848
16	2, 3, 7, 8-TCDD (Dioxin)	1746016						0.046 ppq O, C	30ppq O, C	State Standard SDWA
17	Acrolein	107028	3	3			6 ee, nn	9 ee, nn		74FR27535 74FR46587
18	Acrylonitrile	107131					0.051 B, C	0.25 B, C		65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
19	Benzene	71432					2.2 B, C	51 B, C	5 C	IRIS 01/19/00 65FR66443 SDWA
20	Bromate	15541454							10 C	SDWA
21	Bromoform	75252					4.3 B, C	140 B, C	80 Total THMs C	65FR66443 SDWA
22	Bromoacetic acid	79083							60 Total HAA5 C,mm	SDWA
23	Carbon Tetrachloride	56235					0.23 B, C	1.6 B, C	5 C	65FR66443 SDWA
24	Chlorite	67481							100	SDWA
25	Chlorobenzene	108907					130T, ee	1,600 T, ee	100 T, ee	68FR75510 SDWA
26	Chlorodibromomethane	124481					0.40 B, C	13 B, C	80 Total THMs C	65FR66443 SDWA
27	Chloroform	67663					5.7 B, C, hh	470 B, C, hh	80 Total THMs C	62FR42160 SDWA
28	Dibromoacetic acid	631641							60 Total HAA5 C, mm	SDWA
29	Dichloroacetic acid	79436							60 Total HAA5 C,mm	SDWA
30	Dichlorobromomethane	75274					0.55 B, C	17 B, C	80 Total THMs C	65FR66443 SDWA
31	1, 2-Dichloroethane	107062					0.38 B, C	37 B, C	5 C	65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
										SDWA
32	1, 1-Dichloroethylene	75354					330 ee	7,100 ee	7 C	68FR75510 SDWA
33	1, 2-Dichloropropane	78875					0.50 B, C	15 B, C	5 C	65FR66443 SDWA
34	1, 3-Dichloropropene	542756					0.34 ee	21 ee		68FR75510
35	Ethylbenzene	100414					530 ee	2,100 ee	700 ee	68FR75510 SDWA
36	Methyl Bromide	74839					47 B, ee	1,500 B, ee		65FR66443
37	Methylene Chloride	75092					4.6 B, C	590 B, C	5 C	65FR66443 SDWA
38	Monochloroacetic acid	79118					60 Total HAA5 C,mm			SDWA
39	1, 1, 2, 2-Tetrachloroethane	79345					0.17 B, C	4.0 B, C		65FR66443
40	Tetrachloroethylene	127184					0.69 C	3.3 C	5 C	65FR66443 SDWA
41	Toluene	108883					1,300 ee	15,000 ee	1000 ee	68FR75510 SDWA
42	1,2-Trans-Dichloroethylene	156605					140 ee	10,000 ee	100 ee	68FR75510 SDWA

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
43	Trichloroacetic acid	79039							60 Total HAA5 C,mm	SDWA
44	1, 1, 1-Trichloroethane	71556					J, ee	J, ee	200 ee	65FR31682 SDWA
45	1, 1, 2-Trichloroethane	79005					0.59 B, C	16 B, C	5 C	65FR66443 SDWA
46	Trichloroethylene	79016					2.5 C	30 C	5 C	65FR66443 SDWA
47	Vinyl Chloride	75014					0.025 kk	2.4 kk	2 C	68FR75510 SDWA
48	2-Chlorophenol	95578					81 B, T, ee	150 B, T, ee		65FR66443
49	2, 4-Dichlorophenol	120832					77 B, T, ee	290 B, T, ee		65FR66443
50	2, 4-Dimethylphenol	105679					380 B, T, ee	850 B, T, ee		65FR66443
51	2-Methyl- 4, 6-Dinitrophenol	534521					13 ee	280 ee		65FR66443
52	2, 4-Dinitrophenol	51285					69 B, ee	5,300 B, ee		65FR66443
53	Pentachlorophenol	87865	19 F, K	15 F, K	13 Y	7.9 Y	0.27 B, C	3.0 B, C, H	1 C	65FR31682 65FR66443 SDWA
54	Phenol	108952					10,000 T, ee, nn	860,000 T, ee, nn		74FR27535 74FR46587

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
55	2, 4, 6-Trichlorophenol	88062					1.4 B, C, T	2.4 B, C		65FR66443
56	Acenaphthene	83329					670 B, T, ee	990 B, T, ee		65FR66443
57	Anthracene	120127					8,300 B, ee	40,000 B, ee		65FR66443
58	Benzidine	92875					0.000086 B, C	0.00020 B, C		65FR66443
59	Benzo (a) Anthracene	56553					0.0038 B, C	0.018 B, C		65FR66443
60	Benzo (a) Pyrene	50328					0.0038 B, C	0.018 B, C	0.2 C	65FR66443 SDWA
61	Benzo (b) Fluoranthene	205992					0.0038 B, C	0.018 B, C		65FR66443
62	Benzo (k) Fluoranthene	207089					0.0038 B, C	0.018 B, C		65FR66443
63	Bis-2-Chloroethyl Ether	111444					0.030 B, C	0.53 B, C		65FR66443
64	Bis-2-Chloroisopropyl Ether	108601					1,400 B, ee	65,000 B, ee		65FR66443
65	Bi-s2-Ethylhexyl Phthalate (DEHP)	117817	v	v	v	v	1.2 B, C	2.2 B, C	6 C	65FR66443 SDWA
66	Butylbenzene Phthalate	85687	ii	ii	ii	ii	1,500 B, ee	1,900 B, ee		65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
67	2-Chloronaphthalene	91587					1,000 B, ee	1,600 B, ee		65FR66443
68	Chrysene	218019					0.0038 B, C	0.018 B, C		65FR66443
69	Dibenzo(a,h)Anthracene	53703					0.0038 B, C	0.018 B, C		65FR66443
70	1, 2-Dichlorobenzene	95501					420 ee	1,300 ee	600 ee	68FR75510 SDWA
71	1, 3-Dichlorobenzene	541731					320 ee	960 ee		65FR66443
72	1, 4-Dichlorobenzene	106467					63 ee	190 ee	75 ee	68FR75510 SDWA
73	3, 3'-Dichlorobenzidine	91941					0.021 B, C	0.028 B, C		65FR66443
74	Diethyl Phthalate	84662	ii	ii	ii	ii	17,000 B, ee	44,000 B, ee		65FR66443
75	Dimethyl Phthalate	13113 131113	ii	ii	ii	ii	270,000 B, ee	1,100,000 B, ee		64FR66443
76	Di-n-butyl Phthalate	84742	ii	ii	ii	ii	2,000 B, ee	4,500 B, ee		65FR66443
77	2, 4-Dinitrotoluene	121142					0.11 C	3.4 C		65FR66443
78	1, 2-Diphenylhydrazine	122667					0.036 B, C	0.20 B, C		65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
79	Fluoranthene	206440					130 B, ee	140 B, ee		65FR66443
80	Fluorene	86737					1,100 B, ee	5,300 B, ee		65FR66443
81	Hexachlorobenzene	118741					0.00028 B, C	0.00029 B, C	1 C	65FR66443 SDWA
82	Hexachlorobutadiene	87683					0.44 B, C	18 B, C		65FR66443
83	Hexachlorocyclopentadiene	77474					40 T, ee	1100 T, ee	50 ee	68FR75510 SDWA
84	Hexachloroethane	67721					1.4 B, C	3.3 B, C		65FR66443
85	Indeno 1,2,3(cd) Pyrene	193395					0.0038 B, C	0.018 B, C		65FR66443
86	Isophorone	78591					35 B, C	960 B, C		65FR66443
87	Nitrobenzene	98953					17 B, ee	690 B, H, T, ee		65FR66443
88	N-Nitrosodimethylamine	62759					0.00069 B, C	3.0 B, C		65FR66443
89	N-Nitrosodi-n-Propylamine	621647					0.0050 B, C	0.51 B, C		65FR66443
90	N-Nitrosodiphenylamine	86306					3.3 B, C	6.0 B, C		65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
91	Pyrene	129000					830 B, ee	4,000 B, ee		65FR66443
92	1, 2, 4-Trichlorobenzene	120821					35 ee	70 ee	70 ee	68FR75510 SDWA
93	Aldrin	309002	3.0 G, X		1.3 G, X		0.000049 B, C	0.000050 B, C		65FR31682 65FR66443
94	alpha-BHC	319846					0.0026 B, C	0.0049 B, C		65FR66443
95	beta-BHC	319857					0.0091 B, C	0.017 B, C		65FR66443
96	gamma-BHC (Lindane)	58899	0.95 K		0.16 G		0.98 ee	1.8 ee	0.2 C	65FR31682 68FR75510 SDWA
97	Chlordane	57749	2.4 G	0.0043 G, X	0.09 G	0.004 G, X	0.00080 B, C	0.00081 B, C	2 C	65FR31682 65FR66443 SDWA
98	4, 4'-DDT	50293	1.1 G, gg	0.001 G, X, gg	0.13 G, gg	0.001 G, X, gg	0.00022 B, C	0.00022 B, C		65FR31682 65FR66443
99	4, 4'-DDE	72559					0.00022 B, C	0.00022 B, C		65FR66443
100	4, 4'-DDD	72548					0.00031 B, C	0.00031 B, C		65FR66443
101	Dieldrin	60571	0.24 K	0.056 K, N	0.71 G	0.0019 G, X	0.000052 B, C	0.000054 B, C		65FR31682 65FR66443
102	alpha-Endosulfan	959988	0.22 G, W	0.056 G, W	0.034 G, W	0.0087 G, W	62 B, ee	89 B, ee		65FR31682 65FR66443

Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/ Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:			
							Water & Organism (µg/L)	Organism Only (µg/L)	MCL (µg/L)	
103	beta-Endosulfan	33213659	0.22 G, W	0.056 G, W	0.034 G, W	0.0087 G, W	62 B, ee	89 B, ee		65FR31682 65FR66443
104	Endosulfan Sulfate	1031078					62 B, ee	89 B, ee		65FR31682 65FR66443
105	Endrin	72208	0.086 K	0.036 K, N	0.037 G	0.0023 G, X	0.059 ee	0.060 ee	2 ee	68FR75510 SDWA
106	Endrin Aldehyde	7421934					0.29 B, ee	0.30 B, H, ee		65FR66443
107	Heptachlor	76448	0.52 G	0.0038 G, X	0.053 G	0.0036 G, X	0.000079 B, C	0.000079 B, C	0.4 C	65FR31682 65FR66443 SDWA
108	Heptachlor Epoxide	1024573	0.52 G, U	0.0038 G, U, X	0.053 G, U	0.0036 G, U, X	0.000039 B, C	0.000039B, C	0.2 C	65FR31682 65FR66443 SDWA
109	Polychlorinated Biphenyls PCBs	--		0.014 M, X		0.03 M, X	0.000064 B, C, M	0.000064 B, C, M	0.5 C	65FR31682 65FR66443 SDWA
110	Toxaphene	8001352	0.73	0.0002 X	0.21	0.0002 X	0.00028 B, C	0.00028 B, C	3 C	65FR31682 65FR66443 SDWA

Footnotes:

- A This water quality criterion was derived from data for arsenic (III), but is applied here to total arsenic, which might imply that arsenic (III) and arsenic (V) are equally toxic to aquatic life and that their toxicities are additive. In the arsenic criteria document (EPA 440/5-84-033, January 1985), Species Mean Acute Values are given for both arsenic (III) and arsenic (V) for five species and the ratios of the SMAVs for each species range from 0.6 to 1.7. Chronic values are available for both arsenic (III) and arsenic (V) for one species; for the fathead minnow, the chronic value for arsenic (V) is 0.29 times the chronic value for arsenic (III). No data are known to be available concerning whether the toxicities of the forms of arsenic to aquatic organisms are additive.
- B This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.
- C This criterion is based on carcinogenicity of 10⁻⁶ risk. As prescribed in Section E of this regulation, application of this criterion for permit effluent limitations requires the use annual average flow or comparable tidal condition as determined by the Department.

- D Freshwater and saltwater criteria for metals are expressed in terms of total recoverable metals. As allowed in Section E of this regulation, these criteria may be expressed as dissolved metal for the purposes of deriving permit effluent limitations. The dissolved metal water quality criteria value may be calculated by using these 304(a) aquatic life criteria expressed in terms of total recoverable metal, and multiplying it by a conversion factor (CF). The term “Conversion Factor” (CF) represents the conversion factor for converting a metal criterion expressed as the total recoverable fraction in the water column to a criterion expressed as the dissolved fraction in the water column. (Conversion Factors for saltwater CCCs are not currently available. Conversion factors derived for saltwater CMCs have been used for both saltwater CMCs and CCCs). See “Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria”, October 1, 1993, by Martha G. Prothro, Acting Assistant Administrator for Water, available from the Water Resource center, USEPA, 401 M St., SW, mail code RC4100, Washington, DC 20460; and 40CFR§131.36(b)(1). Conversion Factors can be found in Attachment 1 – Conversion Factors for Dissolved Metals.
- E The freshwater criterion for this metal is expressed as a function of hardness (mg/L) in the water column. The value given here corresponds to a hardness of 25 mg/L as expressed as CaCO₃. Criteria values for other hardness may be calculated from the following: CMC (dissolved) = $\exp\{m_A [\ln(\text{hardness})] + b_A\}$ (CF), or CCC (dissolved) = $\exp\{m_C [\ln(\text{hardness})] + b_C\}$ (CF) and the parameters specified in Attachment 2 – Parameters for Calculating Freshwater Dissolved Metals Criteria That Are Hardness-Dependent. As noted in footnote D above, the values in this appendix are expressed as total recoverable, the criterion may be calculated from the following: CMC (total) = $\exp\{m_A [\ln(\text{hardness})] + b_A\}$, or CCC (total) = $\exp\{m_C [\ln(\text{hardness})] + b_C\}$.
- F Freshwater aquatic life values for pentachlorophenol are expressed as a function of pH, and are calculated as follows: CMC = $\exp(1.005(\text{pH}) - 4.869)$; CCC = $\exp(1.005(\text{pH}) - 5.134)$. Values displayed in table correspond to a pH of 7.8.
- G This criterion is based on 304(a) aquatic life criterion issued in 1980, and was issued in one of the following documents: Aldrin/Dieldrin (EPA 440/5-80-019), Chlordane (EPA 440/5-80-027), DDT (EPA 440/5-80-038), Endosulfan (EPA 440/5-80-046), Endrin (EPA 440/5-80-047), Heptachlor (440/5-80-052), Hexachlorocyclohexane (EPA 440/5-80-054), Silver (EPA 440/5-80-071). The Minimum Data Requirements and derivation procedures were different in the 1980 Guidelines than in the 1985 Guidelines. For example, a “CMC” derived using the 1980 Guidelines was derived to be used as an instantaneous maximum. If assessment is to be done using an averaging period, the values given should be divided by 2 to obtain a value that is more comparable to a CMC derived using the 1985 Guidelines.
- H No criterion for protection of human health from consumption of aquatic organisms excluding water was presented in the 1980 criteria document or in the 1986 Quality Criteria for Water. Nevertheless, sufficient information was presented in the 1980 document to allow the calculation of a criterion, even though the results of such a calculation were not shown in the document.
- I This criterion for asbestos is the Maximum Contaminant Level (MCL) developed under the Safe Drinking Water Act (SDWA) and the National Primary Drinking Water Regulation (NPDWR).
- J EPA has not calculated a 304(a) human health criterion for this contaminant. The criterion is the Maximum Contaminant Level developed under the Safe Drinking Water Act (SDWA) and the National Primary Drinking Water Regulation (NPDWR).
- K This criterion is based on a 304(a) aquatic life criterion that was issued in the 1995 *Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water*, (EPA-820-B-96-001, September 1996). This value was derived using the GLI Guidelines (60FR15393-15399, March 23, 1995; 40CFR132 Appendix A); the difference between the 1985 Guidelines and the GLI Guidelines are explained on page iv of the 1995 Updates. None of the decisions concerning the derivation of this criterion were affected by any considerations that are specific to the Great Lakes.
- L The CMC = $1/[(f_1/\text{CMC}_1) + (f_2/\text{CMC}_2)]$ where f_1 and f_2 are the fractions of total selenium that are treated as selenite and 20elenite, respectively, and CMC1 and CMC2 are 185.9 µg/l and 12.82 µg/l, respectively.
- M This criterion applies to total PCBs, (e.g., the sum of all congener or all isomer or homolog or Aroclor analyses.)
- N The derivation of the CCC for this pollutant did not consider exposure through the diet, which is probably important for aquatic life occupying upper trophic levels.
- O This state criterion is also based on a total fish consumption rate of 0.0175 kg/day.
- P This water quality criterion is expressed as µg free cyanide (as CN)/L.
- Q This value was announced (61FR58444-58449, November 14, 1996) as a proposed GLI 303 I aquatic life criterion
- S This water quality criterion for selenium is expressed in terms of total recoverable metal in the water column. It is scientifically acceptable to use the conversion factor (0.996 – CMC or 0.922 – CCC) that was used in the GLI to convert this to a value that is expressed in terms of dissolved metal.
- T The organoleptic effect criterion is more stringent than the value for priority toxic pollutants.
- U This value was derived from data for heptachlor and the criteria document provides insufficient data to estimate the relative toxicities of heptachlor and heptachlor epoxide.
- V There is a full set of aquatic life toxicity data that show that DEHP is not toxic to aquatic organisms at or below its solubility limit.
- W This value was derived from data for endosulfan and is most appropriately applied to the sum of alpha-endosulfan and beta-endosulfan.

- X This criterion is based on a 304(a) aquatic life criterion issued in 1980 or 1986, and was issued in one of the following documents: Aldrin/Dieldrin (EPA440/5-80-019), Chlordane (EPA 440/5-80-027), DDT (EPA 440/5-80-038), Endrin (EPA 440/5-80-047), Heptachlor (EPA 440/5-80-052), Polychlorinated Biphenyls (EPA 440/5-80-068), Toxaphene (EPA 440/5-86-006). This CCC is based on the Final Residue value procedure in the 1985 Guidelines. Since the publication of the Great Lakes Aquatic Life Criteria Guidelines in 1995 (60FR15393-15399, March 23, 1995), the EPA no longer uses the Final Residue value procedure for deriving CCCs for new or revised 304(a) aquatic life criteria.
- Y This water quality criterion is based on a 304(a) aquatic life criterion that was derived using the 1985 Guidelines (*Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses*, PB85-227049, January 1985) and was issued in one of the following criteria documents: Arsenic (EPA 440/5-84-033), Cadmium (EPA 440/5-84-032), Chromium (EPA 440/5-84-029), Copper (EPA 440/5-84-031), Cyanide (EPA 440/5-84-028), Lead (EPA 440/5-84-027), Nickel (EPA 440/5-86-004), Pentachlorophenol (EPA 440/5-86-009), Toxaphene, (EPA 440/5-86-006), Zinc (EPA 440/5-87-003).
- Z When the concentration of dissolved organic carbon is elevated, copper is substantially less toxic and use of Water-Effect Ratios might be appropriate.
- aa The selenium criteria document (EPA 440/5-87-006, September 1987) provides that if selenium is as toxic to saltwater fishes in the field as it is to freshwater fishes in the field, the status of the fish community should be monitored whenever the concentration of selenium exceeds 5.0 $\mu\text{g/L}$ in salt water because the saltwater CCC does not take into account uptake via the food chain.
- bb This water quality criterion was derived on page 43 of the mercury criteria document (EPA 440/5-84-026, January 1985). The saltwater CCC of 0.025 $\mu\text{g/L}$ given on page 23 of the criteria document is based on the Final Residue value procedure in the 1985 Guidelines. Since the publication of the Great Lakes Aquatic Life criteria Guidelines in 1995 (60FR15393-15399, March 23, 1995), the EPA no longer uses the Final Residue value procedure for deriving CCCs for new or revised 304(a) aquatic life criteria.
- cc This water quality criterion was derived in *Ambient Water Quality Criteria Saltwater Copper Addendum* (Draft, April 14, 1995) and was promulgated in the Interim Final National Toxics Rule (60FR22228-22237, May 4, 1995).
- dd This water quality criterion was derived from data for inorganic mercury (II), but is applied here to total mercury. If a substantial portion of the mercury in the water column is methylmercury, this criterion will probably be under protective. In addition, even though inorganic mercury is converted to methylmercury and methylmercury bioaccumulates to a great extent, this criterion does not account for uptake via the food chain because sufficient data were not available when the criterion was derived.
- ee This criterion is a noncarcinogen. As prescribed in Section E of this regulation, application of this criterion for determining permit effluent limitations requires the use of 7Q10 or comparable tidal condition as determined by the Department.
- gg This criterion applies to DDT and its metabolites (i.e., the total concentration of DDT and its metabolites should not exceed this value).
- hh Although a new RfD is available in IRIS, the surface water criteria will not be revised until the National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) is completed, since public comment on the relative source contribution (RSC) for chloroform is anticipated.
- ii Although EPA has not published a completed criteria document for phthalate, it is EPA's understanding that sufficient data exist to allow calculation of aquatic life criteria.
- jj This recommended water quality criterion is expressed as total cyanide, even though the IRIS RfD the EPA used to derive the criterion is based on free cyanide. The multiple forms of cyanide that are present in ambient water have significant differences in toxicity due to their abilities to liberate the CN-moiety. Some complex cyanides require even more extreme conditions than refluxing with sulfuric acid to liberate the CN-moiety. Thus, these complex cyanides are expected to have little or no ~~'bioavailability'~~ 'bioavailability' to humans. If a substantial fraction of the cyanide present in a water body is present in a complexed form (e.g., $\text{Fe}_4[\text{Fe}(\text{CN})_6]_3$), this criterion may be overly conservative.
- kk This recommended water quality criterion was derived using the cancer slope factor of 1.4 (Linear multi-stage model (LMS) exposure from birth).
- ll Freshwater copper criteria may be calculated utilizing the procedures identified in EPA-822-R-07-001.
- mm HAA5 means five haloacetic acids (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, bromoacetic acid and dibromoacetic acid).
- nn This criterion has been revised to reflect the EPA's cancer slope factor (CSF) or reference dose (RfD), as contained in the Integrated Risk Information System (IRIS) as of (Final FR Notice June 10, 2009). The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.

Amend R.61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, “Non Priority Pollutants” table and footnotes to read:

NON PRIORITY POLLUTANTS

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
1	Alachlor								2 M	SDWA
2	Ammonia	7664417	CRITERIA ARE pH AND TEMPERATURE DEPENDENT – SEE DOCUMENT FOR DETAILS c							EPA822-R99-014 EPA440/5-88-004
3	Aesthetic Qualities		NARRATIVE STATEMENT AND NUMERIC CRITERIA – SEE TEXT							Gold Book
4	Atrazine								3 M	SDWA
5	Bacteria		FOR PRIMARY CONTACT RECREATION AND SHELLFISH USES – SEE TEXT							Gold Book
6	Barium	7440393					1,000 A, L		2,000 L	Gold Book
7	Carbofuran	1563662							40 L	SDWA
8	Chlorine	7782505	19	11	13	7.5			G	Gold Book SDWA
9	Chlorophenoxy Herbicide 2, 4, 5, -TP	93721					10 A, L		50 L	Gold Book SDWA
10	Chlorophenoxy Herbicide 2, 4-D	94757					100 A, L		70 L	Gold Book SDWA
11	Chlorophyll a		NARRATIVE STATEMENT AND NUMERIC CRITERIA – SEE TEXT							State Standard

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
12	Chloropyrifos	2921882	0.083 F	0.041 F	0.011 F	0.0056 F				Gold Book
13	Color		NARRATIVE STATEMENT – SEE TEXT							State Standard
14	Dalapon	75990							200 L	SDWA
15	Demeton	8065483		0.1 E		0.1 E				Gold Book
16	1,2-Dibromo-3-chloropropane (DBCP)	96128							0.2 M	SDWA
17	Di(2-ethylhexyl) adipate	103231							400 L	SDWA
18	Dinoseb	88857							7 L	SDWA
19	Dinitrophenols	25550587					69 L	5,300 L		65FR66443
20	Nonylphenol	1044051	28	6.6	7.0	1.7				71FR9337
21	Diquat	85007							20 L	SDWA
22	Endothall	145733							100 L	SDWA
23	Ether, Bis Chloromethyl	542881					0.00010 D, M	0.00029 D, M		65FR66443

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
24	Cis-1, 2-dichloroethylene	156592							70 L	SDWA
25	Ethylene dibromide								0.05 M	SDWA
26	Fluoride	7681494							4000 L	SDWA
27	Glyphosate	1071836							700 L	SDWA
28	Guthion	86500		0.01 E		0.01 E				Gold Book
29	Hexachlorocyclo-hexane-Technical	319868 608731					0.0123 L	0.0414 L		Gold Book
30	Malathion	121755		0.1 E		0.1 E				Gold Book
31	Methoxychlor	72435		0.03 E		0.03 E	100 A, L		40 L	Gold Book SDWA
32	Mirex	2385855		0.001 E		0.001 E				Gold Book
33	Nitrates	14797558					10, 000 L		10, 000 L	SDWA Gold Book
34	Nitrites	14797650							1,000 L	SDWA
35	Nitrogen, Total		NARRATIVE STATEMENT AND NUMERIC CRITERIA - SEE TEXT							State Standard

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
36	Nitrosamines						0.0008 L	1.24 L		Gold Book
37	Nitrosodibutylamine, N	924163					0.0063 A, M	0.22 A, M		65FR66443
38	Nitrosodiethylamine, N	55185					0.0008 A, M	1.24 A, M		Gold Book
39	Nitrosopyrrolidine, N	930552					0.016 M	34 M		65FR66443
40	Oil and Grease		NARRATIVE STATEMENT – SEE TEXT							Gold Book
41	Oxamyl	23135220							200 L	SDWA
42	Oxygen, Dissolved	7782447	WARMWATER, COLDWATER, AND EXCEPTIONS FOR NATURAL CONDITIONS - SEE TEXT K							Gold Book State Standard
43	Diazinon	333415	0.17	0.17	0.82	0.82				71FR9336
44	Parathion	56382	0.065 H	0.013 H						Gold Book
45	Pentachlorobenzene	608935					1.4 E	1.5 E		65FR66443
46	PH		SEE TEXT I							Gold Book State Standard
47	Phosphorus, Total		NARRATIVE STATEMENT AND NUMERIC CRITERIA - SEE TEXT							State Standard

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
48	Picloram	1918021							500 L	SDWA
49	Salinity		NARRATIVE STATEMENT - SEE TEXT							Gold Book
50	Simazine	122349							4 L	SDWA
51	Solids,Suspended,and Turbidity		NARRATIVE STATEMENT AND NUMERIC CRITERIA - SEE TEXT							Gold Book State Standard
52	Styrene	100425							100 L	SDWA
53	Sulfide-Hydrogen Sulfide	7783064		2.0 E		2.0 E				Gold Book
54	Tainting Substances		NARRATIVE STATEMENT - SEE TEXT							Gold Book
55	Temperature		SPECIES DEPENDENT CRITERIA - SEE TEXT J							Red Book
56	1, 2, 4, 5-Tetrachlorobenzene	95943					0.97 D	1.1 D		65FR66443
57	Tributyltin (TBT)	688733	0.46	0.063	0.37	0.010				EPA 822-F-00-008
58	2, 4, 5-Trichlorophenol	95954					1,800 B, D	3,600 B, D		65FR66443
59	Xylenes, Total								10, 000 L	SDWA
60	Uranium								30	SDWA

Non Priority Pollutant		CAS Number	Freshwater Aquatic Life		Saltwater Aquatic Life		Human Health			FR Cite/Source
			CMC (µg/L)	CCC (µg/L)	CMC (µg/L)	CCC (µg/L)	For Consumption of:		MCL (µg/L)	
							Water & Organism (µg/L)	Organism Only (µg/L)		
61	Beta particles and photon emitters								4 Millirems/yr	SDWA
62	Gross alpha particle activity								15 picocuries per liter (pCi/l)	SDWA
63	Radium 226 and Radium 228 (combined)								5 pCi/l	SDWA
<u>64</u>	<u>Carbaryl</u>	<u>63252</u>	<u>2.1</u>	<u>2.1</u>	<u>1.6</u>					<u>77FR30280</u>

Footnotes:

- A This human health criterion is the same as originally published in the Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value is now published in the Gold Book.
- B The organoleptic effect criterion is more stringent than the value presented in the non priority pollutants table.
- C According to the procedures described in the *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses*, except possibly where a very sensitive species is important at a site, freshwater aquatic life should be protected if both conditions specified in Attachment 3 - Calculation of Freshwater Ammonia Criterion are satisfied.
- D This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of April 8, 1998. The fish tissue bioconcentration factor (BCF) used to derive the original criterion was retained in each case.
- E The derivation of this value is presented in the Red Book (EPA 440/9-76-023, July, 1976).
- F This value is based on a 304(a) aquatic life criterion that was derived using the 1985 Guidelines (*Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses*, PB85-227049, January 1985) and was issued in the following criteria document: Chlorpyrifos (EPA 440/5-86-005).
- G A more stringent Maximum Residual Disinfection Level (MRDL) has been issued by EPA under the Safe Drinking Water Act. Refer to S.C. Regulation 61-58, *State Primary Drinking Water Regulations*.
- H This value is based on a 304(a) aquatic life criterion that was issued in the *1995 Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water* (EPA-820-B-96-001). This value was derived using the GLI Guidelines (60FR15393-15399, March 23, 1995; 40CFR132 Appendix A); the differences between the

1985 Guidelines and the GLI Guidelines are explained on page iv of the 1995 Updates. No decision concerning this criterion was affected by any considerations that are specific to the Great Lakes.

- I South Carolina has established some site-specific standards for pH. These site-specific standards are listed in S.C. Regulation 61-69, *Classified Waters*.
- J U.S. EPA, 1976, Quality Criteria for Water 1976.
- K South Carolina has established numeric criteria in Section G for waters of the State based on the protection of warmwater and coldwater species. For the exception to be used for waters of the State that do not meet the numeric criteria established for the waterbody due to natural conditions, South Carolina has specified the allowable deficit in Section D.4. and used the following document as a source. U.S. EPA, 1986, Ambient Water Quality Criteria for Dissolved Oxygen, EPA 440/5-86-003, National Technical Information Service, Springfield, VA. South Carolina has established some site-specific standards for DO. These site-specific standards are listed in S.C. Regulation 61-69, *Classified Waters*.
- L This criterion is a noncarcinogen. As prescribed in Section E of this regulation, application of this criterion for determining permit effluent limitations requires the use of 7Q10 or comparable tidal condition as determined by the Department
- M This criterion is based on an added carcinogenicity risk. As prescribed in Section E of this regulation, application of this criterion for permit effluent limitations requires the use annual average flow or comparable tidal condition as determined by the Department.

Amend R.61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, “Attachment 2 – Parameters for Calculating Freshwater Dissolved Metals Criteria That Are Hardness-Dependent Criteria” to read:

Attachment 2 - Parameters for Calculating Freshwater Dissolved Metals Criteria That Are Hardness-Dependent

Chemical	m _A	b _A	m _C	b _C	Freshwater Conversion Factors (CF)	
					Acute	Chronic
Cadmium	1.0166 0.9789 <u>A</u>	-3.924 -3.866 <u>A</u>	0.7409 0.7977 <u>A</u>	-4.719 -3.909 <u>A</u>	1.136672-[ln (hardness)(0.041838)]	1.101672-[ln (hardness)(0.041838)]
Chromium III	0.8190	3.7256	0.8190	0.6848	0.316	0.860
Copper	0.9422	-1.700	0.8545	-1.702	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	1.46203-[ln (hardness)(0.145712)]	1.46203-[ln (hardness)(0.145712)]
Nickel	0.8460	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	--	--	0.85	--
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Hardness-dependent metals criteria may be calculated from the following:

CMC (total) = exp{m_A [ln(hardness)]+ b_A}, or CCC (total) = exp{m_C [ln(hardness)]+ b_C}

CMC (dissolved) = exp{m_A [ln(hardness)]+ b_A} (CF), or CCC (dissolved) = exp{m_C [ln (hardness)]+ b_C} (CF).

Footnotes:

A This parameter was issued by the EPA in Aquatic Life Ambient Water Quality Criteria Cadmium - 2016 (EPA-820-R-16-002).

Amend 61-68 APPENDIX, Water Quality Numeric Criteria for the Protection of Aquatic Life and Human Health, to add “Attachment 4 – Calculation of the Sample Specific Freshwater Acute and Chronic Criterion for Metals”

Attachment 4 - Calculation of the Sample Specific Freshwater Acute and Chronic Criterion for Metals

As provided in R.61-68.E.14.d(3), in order to “appropriately evaluate the ambient water quality for the bioavailability of the dissolved portion of hardness dependent metals, the Department may utilize a federally-approved methodology to predict the dissolved fraction or partitioning coefficient in determining compliance with the water quality standards.” Per R.61-68.E.14.a(3), the Criterion Maximum Concentration (CMC) and the Criterion Continuous Concentration (CCC) are based on a hardness of 25 mg/L if the ambient stream hardness is equal to or less than 25 mg/L. Concentrations of hardness less than 400 mg/L may be based on the stream hardness if it is greater than 25 mg/L and less than 400 mg/L, and 400 mg/L if the ambient stream hardness is greater than 400 mg/L. In absence of actual stream hardness it is assumed to be 25 mg/l.

1. Conversion Factor for Dissolved Metals

Refer to R.61-68, *Water Classifications and Standards*, Attachment 2 - Parameters for Calculating Freshwater Dissolved Metals Criteria that are Hardness-Dependent to determine the appropriate parameters and conversion factor. Both CMC and CCC may be expressed as total recoverable or dissolved using the appropriate equations found in Attachment 2.

2. Partitioning Coefficient (Translator)

The partitioning coefficient (K_P) is a translator for the fraction of the total recoverable metal that is bound to adsorbents in the water column, i.e. TSS. The calculation of partitioning coefficients is determined using the following equation.

$$K_P = K_{PO} \times (TSS_b)^\alpha$$

where K_P has units of L/kg

TSS_b = In-stream Total Suspended Solids concentration in mg/L

Parameters for default partition coefficient estimation equations (K_{PO} and α) are provided from Table 3 of *The Metals Translator: Guidance For Calculating A Total Recoverable Permit Limit From A Dissolved Criterion*, EPA 823-B-96-007.

	<u>Lakes</u>		<u>Streams</u>	
<u>Metal</u>	<u>K_{PO}</u>	<u>α</u>	<u>K_{PO}</u>	<u>α</u>
<u>Cadmium</u>	<u>3.52E+06</u>	<u>-0.9246</u>	<u>4.00E+06</u>	<u>-1.1307</u>
<u>Chromium III</u>	<u>2.17E+06</u>	<u>-0.2662</u>	<u>3.36E+06</u>	<u>-0.9304</u>
<u>Copper</u>	<u>2.85E+06</u>	<u>-0.9000</u>	<u>1.04E+06</u>	<u>-0.7436</u>
<u>Lead</u>	<u>2.0E+06</u>	<u>-0.5337</u>	<u>2.80E+06</u>	<u>-0.8</u>
<u>Nickel</u>	<u>2.21E+06</u>	<u>-0.7578</u>	<u>4.90E+05</u>	<u>-0.5719</u>

<u>Zinc</u>	<u>3.34E+06</u>	<u>-0.6788</u>	<u>1.25E+06</u>	<u>-0.7038</u>
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3. Final Sample Specific Total Recoverable CMC or CCC (µg/L) Adjusted for In-Situ Hardness and TSS

The instream total recoverable concentration is determined using Equation 6.4 of *The Metals Translator: Guidance For Calculating A Total Recoverable Permit Limit From A Dissolved Criterion*, EPA 823-B-96-007.

$$\text{CMC (total recoverable adjusted)} = \text{CMC (dissolved)} \times \{1 + (K_P \times \text{TSS}_b \times 10^{-6})\}$$

where CMC (dissolved) = $\exp\{m_A [\ln (\text{hardness})] + b_A\}$ (CF)

$$\text{K}_P = \text{K}_{PO} \times (\text{TSS}_b)^\alpha$$

TSS_b = In-stream Total Suspended Solids concentration in mg/L

10⁻⁶ = Units conversion factor to express CCC (total recoverable adjusted) in µg/L

$$\text{CCC (total recoverable adjusted)} = \text{CCC (dissolved)} \times \{1 + (K_P \times \text{TSS}_b \times 10^{-6})\}$$

where CCC (dissolved) = $\exp\{m_C [\ln (\text{hardness})] + b_C\}$ (CF)

$$\text{K}_P = \text{K}_{PO} \times (\text{TSS}_b)^\alpha$$

TSS_b = In-stream Total Suspended Solids concentration in mg/L

10⁻⁶ = Units conversion factor to express CCC (total recoverable adjusted) in µg/L.

Note: The background TSS is assumed to be the measured instream data (mg/L) or 1 mg/L in the absence of actual instream data (based on the 5th percentile of ambient TSS data on South Carolina waterbodies from 1993-2000).

If the ambient stream metals result exceeds CMC (total recoverable adjusted) or CCC (total recoverable adjusted) based on the measured TSS and hardness collected with the metal sample it constitutes a standard exceedance. Lacking actual instream TSS and hardness data, a metals result exceeding CMC (total recoverable adjusted) or CCC (total recoverable adjusted) based on the default hardness of 25 mg/L and the default TSS value of 1 mg/L constitutes a potential standard exceedance.

ATTACHMENT B

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-68, Water Classifications and Standards. Interested persons may submit comment(s) on the proposed amendment to Andrew Edwards, Water Quality Standards Coordinator of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on March 25, 2019, the close of the draft comment period.

Synopsis:

Section 303(c)(2)(B) of the federal Clean Water Act (“CWA”) requires South Carolina’s water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency’s updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA. The Department proposes amending R.61-68 to adopt these criteria as deemed necessary to comply with federal regulatory revisions.

The Department may also include stylistic changes, such as corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation.

General Assembly review is required.

ATTACHMENT C

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES

R.61-68, Water Classifications and Standards

As of the March 25, 2019, close of the Notice of Drafting comment period:

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Gerrit Jöbbsis, American Rivers; South Carolina Rivers Forever; Megan Chase, Upstate Forever	N/A	Stream flow protection is a critical issue for South Carolina. Given its environmental and economic values, it is imperative that the Department explicitly recognize stream flow protection through narrative standards.	The Department recognizes the importance of stream flow protection. The Department is currently working to determine appropriate narrative stream flow standards. Following this Triennial Review, the Department plans to initiate a separate rulemaking process focused on stream flow standards.
South Carolina Rivers Forever; Megan Chase, Upstate Forever	N/A	The Department should prioritize the establishment of instream nutrient standards for all SC rivers and streams.	The Department has a phased nutrient promulgation schedule. This phased approach is part of a plan submitted to EPA consistent with the CWA. Previously the Department had focused resources on establishing nutrient criteria for estuaries because of substantial data to support that effort. Currently the Department is in the process of shifting resources to focus on the development of site specific nutrient criteria for the Catawba watershed.
Paul Calamita, South Carolina Water Quality Association	R.61-68.E.14.c.(8)ii., R.61-68.E.14.c.(9)ii., R.61-68.E.14.c.(10)ii., R.61-68.E.14.c.(11)ii., R.61-68.E.14.c.(12)	The POTW bacteria provisions are too complicated. The Department should transition POTWs to monthly/weekly geometric mean bacteria limits.	The Department established the referenced bacteria standards to protect recreational uses in freshwaters and saltwaters and to protect human health through the consumption of shellfish from shellfish harvesting waters. The Department does not intend to propose changes to the existing bacteria sampling and reporting requirements during this triennial review.

NAME	SECTION CITATION	PUBLIC COMMENT	DEPARTMENT RESPONSE
Paul Calamita, South Carolina Water Quality Association	R.61-68.C.10	The Department should consider changes in the mixing zone requirements to allow for a case-specific mixing zone where the impairment is based on a fish consumption advisory. This approach would provide some appropriate flexibility in mercury permitting.	The Department does not intend to propose changes to the existing mixing zone regulations during this triennial review.
Paul Calamita, South Carolina Water Quality Association	R.61-68.E.4.b.	The Department should consider including a statement that would defer and/or waive these reporting requirements during natural disasters, major storm events, or other extenuating circumstances.	Adding a statement that would defer and/or waive reporting requirements is not within the scope of the Notice of Drafting. The Department will consider adding a statement for waiving reporting requirements during a separate rulemaking process.
Paul Calamita, South Carolina Water Quality Association	R.61-68.E.11.b.	The Department should clarify the application of the lake numeric criteria as being seasonal geometric mean criteria.	The Department does not intend to propose changes to the existing numeric nutrient criteria for lakes during this triennial review.
Megan Chase, Upstate Forever	R.61-68 Appendix	The Department should reconsider the adoption of criteria for 94 toxic pollutants in accordance with the EPA's updated human health and aquatic life criteria.	The Department does not intend to adopt the nationally recommended human health criteria into the State's water quality standards during this triennial review. The Department will retain these comments for consideration during future triennial reviews.

(x) ACTION/DECISION

() INFORMATION

Date: August 8, 2019

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

From: Bureau of Water

Re: Notice of Proposed Regulation Amending R.61-69, *Classified Waters*.

I. Introduction

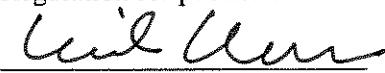
The Bureau of Water ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-69, *Classified Waters*, for publication in the August 23, 2019, *South Carolina State Register* ("State Register"). Legal authority resides in 1976 Code Sections 48-1-10 et seq., which provides that the Department of Health and Environmental Control ("Department") shall promulgate regulations to implement the South Carolina Pollution Control Act. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

II. Facts

1. R.61-69 establishes South Carolina's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Bureau proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. The Bureau also proposes stylistic changes for overall improvement of the text of the regulation.
2. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department did not receive any public comments by March 25, 2019, the close of the public comment period.
3. The Department met with stakeholders to discuss the Notice of Drafting and receive stakeholder input on April 23, 2019, and May 21, 2019.
4. Appropriate Department staff conducted an internal review of the proposed amendments on July 10, 2019.

III. Request for Approval

The Bureau of Water respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 23, 2019, *State Register*.


Mike Marcus, Ph.D.
Chief, Bureau of Water


Myra Reece
Director of Environmental Affairs

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the February 22, 2019, *State Register*

ATTACHMENT A

**STATE REGISTER NOTICE OF PROPOSED REGULATION
FOR R.61-69, *Classified Waters***

August 8, 2019

Document No. _____

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

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

61-69. Classified Waters.

Preamble:

R.61-69 establishes the State's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department of Health and Environmental Control ("Department") proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. The Department also proposes stylistic changes for overall improvement of the text of the regulation. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

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

Section-by-Section Discussion of Proposed Amendments:

Amend 61.69.H. to correct the description for portions of Ashley River in Charleston and Dorchester Counties.

Amend 61-69.H. to correct the class for portions of Atlantic Intracoastal Waterway in Georgetown County.

Amend 61-69.H. to correct the description for portions of Bartons Branch in Georgetown and Williamsburg counties.

Amend 61-69.H. to remove Bear Creek from the list of classified waters. Bear Creek is currently listed as that portion of the creek in Oconee County from the State line to Lake Jocassee, however Lake Jocassee is impounded beyond the State line. Therefore, the listing should be removed.

Amend 61-69.H. to remove Bearcamp Creek from the list of classified waters. Bearcamp Creek is currently listed as that portion of the creek in Oconee County from the State line to Lake Jocassee, however Lake Jocassee is impounded beyond the State line. Therefore, the listing should be removed.

Amend 61-69.H. to correct the counties for portions of Black Creek in Chesterfield, Darlington, and Florence Counties.

Amend 61.69.H. to correct the name and counties for portions of Black Creek in Georgetown County.

Amend 61.69.H. to correct the county and description for portions of Black River in Georgetown County.

Amend 61-69.H. to add Boggy Swamp to the list of classified waters in Georgetown County. This portion of the river was previously listed as Sampit River.

Amend 61-69.H. to correct the description for portions of Buckhorn Creek in Greenville County.

Amend 61-69.H. to add Cane Creek to the list of classified waters in Pickens County. This creek was previously listed as Crane Creek.

Amend 61-69.H. to correct the description for portions of Carrick Creek in Pickens County.

Amend 61-69.H. to correct the name for portions of Chowan Creek in Beaufort County.

Amend 61-69.H. to correct the description for portions of Clark Creek in York County.

Amend 61-69.H. to correct the description for portions of Corbin Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Cox Camp Creek in Greenville County.

Amend 61-69.H. to correct the name for portions of Crabhaul Creek in Georgetown County.

Amend 61-69.H. to remove Crane Creek and replace it with Cane Creek in Pickens County.

Amend 61-69.H. to correct the name for portions of Devils Fork Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Edisto River (Main Stem) in Orangeburg, Bamberg, Dorchester, Colleton, and Charleston Counties.

Amend 61-69.H. to add Filbin Creek to the list of classified waters in Charleston County.

Amend 61-69.H. to correct the name and description for portions of Grambling Creek in Orangeburg County.

Amend 61-69.H. to add Great Pee Dee River to the list of classified waters in Chesterfield, Dillon, Darlington, Florence, Marion, Marlboro, Williamsburg, and Georgetown Counties. This river was previously listed as Pee Dee River.

Amend 61-69.H. to correct the description for portions of Howard Creek in Oconee County.

Amend 61-69.H. to correct the name, class, and description for portions of Johnsons Swamp in Georgetown and Williamsburg Counties.

Amend 61-69.H. to correct the name and county for portions of Lake Swamp in Florence County.

Amend 61-69.H. to correct the description for portions of Limber Pole Creek in Oconee County.

Amend 61-69.H. to correct the name for Little Lynches River in Kershaw and Lancaster Counties.

Amend 61-69.H. to correct the name and county for portions of Lynches Lake in Florence County.

Amend 61-69.H. to correct the description for portions of Milton Creek in Charleston County.

Amend 61-69.H. to correct the name for portions of Mud Creek in Charleston County.

Amend 61-69.H. to correct the name, county, class, and description for portions of Mud River in Jasper County.

Amend 61-69.H. to correct the description for portions of Muddy Creek in Florence and Williamsburg Counties.

Amend 61-69.H. to remove Pee Dee River and replace it with Great Pee Dee River in Chesterfield, Dillon, Darlington, Florence, Marion, Marlboro, Williamsburg, and Georgetown Counties.

Amend 61-69.H. to remove Rock Branch and replace it with Rocky Branch in Greenville County.

Amend 61-69.H. to correct the description for portions of Rocky Bluff Swamp in Lee and Sumter Counties.

Amend 61-69.H. to correct the name for portions of Running Lake Creek in Richland County.

Amend 61-69.H. to correct the name and description for portions of Russell Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of Salkehatchie River in Allendale, Bamberg, Barnwell, Colleton, and Hampton Counties.

Amend 61-69.H. to remove portions of Salkehatchie River in Beaufort, Colleton, and Hampton Counties. This portion of the river is already correctly listed as Combahee River. Therefore, this listing should be removed.

Amend 61-69.H. to remove portions of Sampit River in Georgetown County. This portion of the river is Boggy Swamp. Therefore, this listing should be removed.

Amend 61-69.H. to correct the description for portions of the Sampit River in Georgetown County.

Amend 61-69.H. to correct the description for portions of Sampson Island Creek in Colleton County.

Amend 61-69.H. to correct the description for portions of Sand Creek in Laurens County.

Amend 61-69.H. to correct the county for portions of Savannah River in Anderson County.

Amend 61-69.H. to correct the description for portions of Sixty Bass Creek in Georgetown County.

Amend 61-69.H. to correct the county for portions of South Pacolet River in Greenville County.

Amend 61-69.H. to correct the name, class, and description for portions of Summerhouse Branch in Georgetown and Williamsburg Counties.

Amend 61-69.H. to correct the description for portions of Swaford Creek in Oconee County.

Amend 61-69.H. to correct the description for portions of Tom Point Creek in Charleston County.

Amend 61-69.H. to correct the name and description for portions of Toms Creek in Lexington County.

Amend 61-69.H. to correct the description for portions of Toogoodoo Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of White Oak Creek in Marion County.

Amend 61-69.H. to correct the description for portions of Whooping Island Creek in Charleston County.

Amend 61-69.H. to correct the description for portions of Willow Swamp in Orangeburg County.

Amend 61-69.H. to correct the county and description for portions of Zekial Creek in Cherokee and Spartanburg Counties.

Amend 61-69.H. to remove each instance of mg/l and replace it with mg/L.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Andrew Edwards, Water Quality Standards Coordinator of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 23, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendment during its November 7, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

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

Preliminary Fiscal Impact Statement

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by 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: 61-69, Classified Waters

Purpose: Proposed amendment of R.61-69 will clarify, strengthen, and improve the overall quality of the existing regulation and make appropriate revisions of the State's water quality standards in accordance with 33 U.S.C. Section 303(c)(2)(B) of the federal Clean Water Act ("CWA").

Legal Authority: 1976 Code Sections 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 this proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

R.61-69 establishes the State's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department's proposed amendments to R.61-69 clarify and correct, as needed, waterbody names, counties, classes, and descriptions.

DETERMINATION OF COSTS AND BENEFITS:

Existing staff and resources will be utilized to implement these amendments to the regulation. No anticipated additional cost will be incurred by the State if the revisions are implemented, and no additional State funding is being requested.

Overall cost impact to the State's political subdivisions or the regulated community as a whole is not likely to be significant. Existing standards would have incurred similar cost. Furthermore, the standards required under the amendments will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

The uncertainties associated with the estimation of benefits and burdens are minimal.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizens of the State. The proposed amendments to R.61-69 seek to correct and clarify portions of the list of classified waters in order to provide citizens a more accurate representation of the waters of the State.

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

Failure by the Department to incorporate appropriate revisions to the list of classified waters in R.61-69 will allow an inaccurate representation of the State's waters to persist. This list is the only repository of the State's site-specific water quality standards and is used as the basis for National Pollutant Discharge Elimination System ("NPDES") permit decisions. If not corrected, the inaccuracies in the existing regulation may lead to unnecessary contamination of the waters of the State with detrimental effects on the health of flora and fauna, as well as the citizens of South Carolina.

Statement of Rationale:

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

R.61-69 establishes the State's site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Department proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions.

Text:

~~Indicates Matter Stricken~~
Indicates New Matter

61-69. Classified Waters.

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

Amend 61-69.H to read:

H. List of Waterbody Names, County(ies), Class, and Descriptions.

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Abner Creek	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
Adams Creek	Chtn	ORW(SFH)	The entire creek tributary to Bohicket Creek
Allan Creek (also called Allen Creek)	Spbg	FW	The entire creek tributary to Enoree River
Alligator Creek	Cltn	ORW(SFH)	The entire creek tributary to South Edisto River
Allison Creek	York	FW	The entire creek tributary to Lake Wylie
Alston Creek	Chtn	SFH	The entire creek tributary to Wando River
Anderson Reservoir	Andn	FW	The entire reservoir on Beaverdam Creek
Archers Creek	Bfrt	SA	That portion of the creek from Port Royal to U.S. Government Parris Island Bridge
Archers Creek	Bfrt	SFH	That portion of the creek from the U.S. Government Parris Island Bridge to Broad River
Ashepoo River	Cltn	FW	That portion of the river to saltwater intrusion
Ashepoo River	Cltn	SFH	That portion of the river from saltwater intrusion to the Atlantic Ocean
Ashley River	Chtn, Dchr	FW	That portion of the river from its beginning at Hurricane Branch to Bacon Bridge <u>Cypress Swamp to the confluence with Popper Dam Creek</u>
Ashley River	Chtn, Dchr	SA	That portion of the river from Bacon Bridge <u>the confluence with Popper Dam Creek</u> to Church Creek
Ashley River	Chtn	SA sp	That portion of the river from Church Creek to Orangegroove Creek (D.O. not less than 4 mg/4L)
Ashley River	Chtn	SA	That portion of the river from Orangegroove Creek to Charleston Harbor
Ashpole Swamp	Dill, Marn	FWsp	The entire swamp tributary to Lumbar River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Atlantic Intracoastal Waterway	Hory	SA	That portion of the waterway from the North Carolina line to S.C. Hwy 9

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Atlantic Intracoastal Waterway	Hory	FW	That portion of the waterway from S.C. Hwy 9 to its confluence with Waccamaw River
Atlantic Intracoastal Waterway	Gtwn, Hory	FWsp	That portion of the waterway from its confluence with Waccamaw River to Thoroughfare Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Atlantic Intracoastal Waterway	Gtwn	SA sp	That portion of the waterway from Thoroughfare Creek to the headwaters of Winyah Bay (D.O. not less than 4 mg/4L)
Atlantic Intracoastal Waterway	Gtwn	SA <u>SB</u>	That portion of the waterway from the headwaters of Winyah Bay to South Santee River
Atlantic Intracoastal Waterway	Chtn	SFH	That portion of the waterway from South Santee River to the Ben Sawyer Bridge
Atlantic Intracoastal Waterway	Chtn	SB	That portion of the waterway from the Ben Sawyer Bridge through Charleston Harbor to the confluence of Elliott Cut and Stono River
Atlantic Intracoastal Waterway	Chtn	SFH	That portion of the waterway from the confluence of Elliott Cut and Stono River to the S.C.L. Railroad Bridge over Stono River
Atlantic Intracoastal Waterway	Chtn	SFH	That portion of the waterway from the S.C.L. Railroad Bridge over Stono River to the confluence of Wadmalaw Sound and Stono River
Atlantic Intracoastal Waterway	Chtn	ORW(SFH)	That portion of the waterway from the confluence of Wadmalaw Sound and Stono River to Gibson Creek
Atlantic Intracoastal Waterway	Chtn	ORW(SFH)	That portion of the waterway from Gibson Creek along Wadmalaw River and Dawho River to North Creek
Atlantic Intracoastal Waterway	Chtn	ORW(SFH)	That portion of the waterway from North Creek through Watts Cut to South Edisto River
Atlantic Intracoastal Waterway	Chtn, Cltn	ORW(SFH)	That portion of the waterway from South Edisto River at Watts Cut to South Edisto River at Fenwick Cut
Atlantic Intracoastal Waterway	Cltn	SFH	That portion of the waterway from South Edisto River at Fenwick Cut along the Ashepoo River to the confluence with St. Helena Sound
Atlantic Intracoastal Waterway	Bfrit, Cltn	SFH	That portion of the waterway from the confluence with St. Helena Sound through the Sound to the confluence with Coosaw River
Atlantic Intracoastal Waterway	Bfrit	SFH	That portion of the waterway from the confluence with Coosaw River along Brickyard Creek to the confluence with Albergottie Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Atlantic Intracoastal Waterway	Bfrit	SA	That portion of the waterway from the confluence of Brickyard and Albergottie Creeks to become the Beaufort River to a boundary drawn along Beaufort River between the upper banks of Battery Creek and Cat Island Creek
Atlantic Intracoastal Waterway	Bfrit	SFH	That portion of the waterway from a boundary drawn along Beaufort River between the upper bank of Battery Creek and Cat Island through Port Royal Sound to the confluence with Skull Creek
Atlantic Intracoastal Waterway	Bfrit	SFH	That portion of the waterway from the confluence with Skull Creek through Calibogue Sound, along Cooper River and Ramshorn Creek, to the confluence with New River
Atlantic Intracoastal Waterway	Jspr	SA	That portion of the waterway from the confluence of Ramshorn Creek with New River to Watts Cut and Wright River
Atlantic Intracoastal Waterway	Jspr	SA	That portion of the waterway from Wright River to Mud River to Savannah River
Back River	Bkly	FW	The entire river tributary to Cooper River
Bad Creek	Ocne	ORW(FW)	That portion of the creek from the North Carolina line to Chattooga River
Bad Creek Reservoir	Ocne	FW	The entire reservoir
Bailey Creek	Andn	FW	The entire creek tributary to Rocky Creek
Bailey Creek	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre Creek
Baker Creek	Mcmk	FW	The entire creek tributary to Lake Strom Thurmond
Ballast Creek	Bfrit	SA	That portion of the creek from the tidal node to Beaufort River
Ballast Creek	Bfrit	SFH	That portion of the creek from the tidal node to Broad River
Bartons Branch (also called Summerhouse Branch and Johnsons Swamp)	Gtwn, Wmbg	FWsp	The entire branch tributary to Black River <u>Horse Pen Swamp</u> (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Bass Creek	Bfrit	ORW(SFH)	The entire creek tributary to May River
Bass Hole Bay	Gtwn	ORW(SFH)	The entire bay between Old Man Creek and Debidue Creek
Battery Creek	Bfrit	SA	That portion of the creek from the two unnamed headwater creeks down to a point 1000 feet below their confluence at Rabbit Island
Battery Creek	Bfrit	SFH	That portion of the creek from a point 1000 feet below the headwater creeks confluence at Rabbit Island to the confluence with Beaufort River
Battle Creek	Ocne	TPGT	The entire creek tributary to Tugaloo River
Bear Creek	Andn	FW	The entire creek tributary to Rocky Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Bear Creek	Lctr	FW	The entire creek tributary to Cane Creek
Bear Creek	Newb, Lexi	FW	The entire creek tributary to Lake Murray
Bear Creek	Oene	TN	That portion of the creek from State line to Lake Jocassee
Bear Swamp	Diln	FWsp	The entire swamp tributary to Ashpole Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Beareamp Creek	Oene	TN	That portion of the creek from State line to Lake Jocassee
Beards Fork Creek	Lrns	FW	The entire creek tributary to Duncan Creek
Beaufort River	Bfrt	SA	That portion of the river from the confluence of Albergottie Creek and Brickyard Creek to a boundary drawn between the upper bank of Battery Creek and Cat Island Creek
Beaufort River	Bfrt	SFH	That portion of the river from a boundary drawn between the upper bank of Battery Creek and Cat Island Creek to the confluence with Port Royal Sound
Beaver Creek	Andn	FW	The entire creek tributary to Rocky River
Beaver Creek	Krsh	FW	The entire creek tributary to Wateree Lake
Beaverdam Creek	Andn	FW	The entire creek tributary to Rocky River
Beaverdam Creek	Drln, Cfld	FW	The entire creek tributary to Black Creek
Beaverdam Creek	Efld	FW	The entire creek tributary to Turkey Creek
Beaverdam Creek	Gnvl	ORW(FW)	That portion of the creek from its headwaters to Secondary Road 563
Beaverdam Creek	Gnvl	FW	That portion of the creek from Secondary Road 563 to Enoree River
Beaverdam Creek	Lrns	FW	The entire creek tributary to Enoree River
Beaverdam Creek	Mrlb	FW	The entire creek tributary to Little Pee Dee River
Beaverdam Creek	York	FW	The entire creek tributary to Crowder's Creek
Beaverdam Creek (also called Irene Creek)	Chke	FW	The entire creek tributary to Thicketty Creek
Beaverdam Creek (also called Big Beaverdam Creek)	Andn	FW	The entire creek tributary to Rocky River
Bees Creek	Jspr	SB	The entire creek tributary to Coosawhatchie River
Bell Swamp Creek	Diln	FW	The entire creek tributary to Little Pee Dee River
Beresford Creek	Bkly	SFH	That portion of the creek from Wando River to a point 4 miles from Wando River
Beresford Creek	Bkly	SA	That portion of the creek from a point 4 miles from Wando River to Clouter Creek
Betsy Creek	Andn	FW	The entire creek tributary to Beaver Creek
Big Bay Creek	Chtn	ORW(SFH)	The entire creek tributary to South Edisto River
Big Boggy Swamp	Drln	FW	The entire swamp tributary to McIntosh Mill Stream

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Big Creek	Andn	FW	The entire creek tributary to Saluda River
Big Dutchmans Creek	Ffld	FW	The entire creek tributary to Lake Wateree
Big Dutchmans Creek	York	FW	The entire creek tributary to Catawba River
Big Generostee Creek	Andn	FW	The entire creek tributary to Savannah River
Big Lake	Rlnd	ORW(FW)	The entire lake within the boundaries of Congaree National Park
Big Pine Tree Creek	Kshw	FW	The entire creek tributary to Wateree River
Big Rock Creek	Gnwd	FW	The entire creek tributary to Wilson Creek
Big Swamp	Flrn	FWsp	The entire swamp tributary to Lynches River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Black Creek	Cfld, Drln, Flrn	FW	That portion of the creek from its headwaters to S.C. 145
Black Creek	Cfld, Drln	FWsp	That portion of the creek from S.C. 145 <u>through Lake Robinson and Lake Prestwood</u> to U. S. 52 (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Black Creek	Cfld, Drln, Flrn	FW	That portion of the creek from U.S. 52 to Great Pee Dee River
Black Creek River	Clrn, Gtwn, Lee, Smtr, Wmbg	FWsp	That portion of the creek from its headwaters to U.S. 701 (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Black River	Gtwn	SA	That portion of the river from U.S. 701 to <u>Winyah Bay</u> Pee Dee River
Blue Hill Creek	Abvl	FW	The entire creek tributary to Norris Creek
Bly Creek	Gtwn	ORW(SFH)	The entire creek tributary to Old Man Creek
Bob's Garden Creek	Gtwn	ORW(SFH)	The entire creek tributary to Jones Creek
Boggy Swamp	Gtwn	FWsp	<u>That portion of the river from the headwaters to saltwater intrusion</u> (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Bohicket Creek	Chtn	ORW(SFH)	The entire creek tributary from North Edisto River to Church Creek
Boone Hall Creek	Chtn	SFH	The entire creek tributary to Horlbeck Creek
Boor Creek	Gtwn	ORW(SFH)	The entire creek between Jones Creek and Wood Creek
Brasstown Creek	Ocne	TPGT	That portion of the creek from headwaters to Tugaloo River
Bread and Butter Creek	Gtwn	ORW(SFH)	The entire creek tributary to Town Creek
Brickyard Creek	Chtn	SB	The entire creek tributary to Ashley River
Brickyard Creek	Bftr	SFH	The entire creek tributary to Beaufort River
Broad Creek (NDZ)	Bftr	SFH	The entire creek tributary to Calibogue Sound
Broad River	Brft, Jspr	SFH	The entire river tributary to Port Royal Sound
Broad River (Main Stem)	Chke, Cstr, Ffld, Nbry, Rlnd, Unin, York	FW	The entire river tributary to Congaree River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Broadmouth Creek	Abvl, Andn	FW	The entire creek tributary to Saluda River
Broadway Creek	Andn	FW	The entire creek tributary to Rocky Creek
Brown Swamp	Hory, Marn	FWsp	The entire swamp tributary to Little Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Brunson Swamp	Hory	FW	The entire swamp tributary to Little Pee Dee River
Brushy Creek	Gnvl	FW	That portion of the creek from headwaters northeast of Greenville to Enoree River
Brushy Creek	Gnvl	FW	The entire creek tributary to Reedy River
Brushy Creek	Pkns	FW	The entire creek tributary to Saluda River
Buck Creek	Brwl	FW	The entire creek tributary to Salkehatchie River
Buck Creek	Spbg	FW	The entire creek tributary to Pacolet River
Buck Hollow	Gnvl	TN	The entire tributary to Middle Saluda River
Buck Swamp	Diln, Marn, Mrlb	FWsp	The entire swamp tributary to Little Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Buckhorn Creek	Gnvl	ORW(FW)	That portion of the creek from headwaters, including Buckhorn Lake, to North <u>Buckhorn Tanyard Road</u>
Buckhorn Creek	Gnvl	FW	That portion of the creek from North-Buckhorn <u>Tanyard Road</u> to Enoree River
Buffalo Creek	Unin	FW	The entire creek tributary to Fairforest Creek
Buffalo Creek	Chke	FW	The entire creek tributary to Broad River
Bull Branch	Mrlb	FW	The entire branch tributary to Hagins Prong
Bull Creek	Bftr	ORW(SFH)	The entire creek tributary to Cooper River and May River
Bull Creek	Hory	FW	The entire creek tributary to Pee Dee River to Waccamaw River
Bull Run Branch	Cstr	FW	The entire branch within Chester County
Bull Swamp	Orbg	FWsp	The entire swamp tributary to Four Hole Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Bull Swamp Creek	Lxtn, Orbg	FW	The entire creek tributary to North Fork Edisto River
Bullock Creek	York	FW	The entire creek tributary to Broad River
Bull's Bay	Chtn	ORW(SFH)	The entire bay
Bulls Creek	Chtn	SA sp	The entire creek tributary to Ashley River (D.O. not less than 4 mg/4L)
Bullyard Sound	Chtn	ORW(SFH)	The entire sound
Burdine Creek	Pkns	FW	The entire creek tributary to Georges Creek
Burgess Creek	Ocne	TN	That portion of the creek from its headwaters to Mill Creek
Burnetts Creek	Slda	FW	The entire creek tributary to Little Saluda River
Burnt Gin Lake	Smtr	FW	The entire lake located on the western reaches of Cane Savannah Creek
Bush Creek (or River)	Lrns, Nbry	FW	The entire creek tributary to Lake Murray

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Byrum's Creek (Branch from Appleton Mill to Whitner Creek)	Andn	FW	The entire creek tributary to Whitner Creek
Calhoun Creek	Abvl	FW	The entire creek tributary to Little River
Calibogue Sound	Bftr	SFH	The entire sound tributary to the Atlantic Ocean
Callawassie Creek	Bftr	ORW(SFH)	The entire creek tributary to Colleton River
Camp Branch	Ocne	FW	The entire branch tributary to Opossum Creek
Cane Creek	Lctr	FW	The entire creek tributary to Catawba River
Cane Creek	<u>Pkns</u>	<u>TN</u>	<u>The entire creek tributary to Lake Keowee</u>
Cannons Creek	Nbry	FW	The entire creek tributary to Broad River
Canoe Creek	Andn	FW	The entire creek tributary to Little Generostee Creek
Cantrell Creek	Ocne	TN	That portion of the creek from its headwaters to Lake Cheohee
Cape Romain Harbor	Chtn	ORW(SFH)	The entire harbor
Caper's Inlet	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
Captain Bill's Creek	Jspr	FW	The entire creek tributary to Bee's Creek
Carrick Creek	Pkns	ORW(FW)	That portion of the river <u>creek</u> from its headwaters to Pinnacle Lake
Carrick Creek	Pkns	FW	That portion of the river <u>creek</u> from the dam at Pinnacle Lake to the end of Table Rock State Park land
Carter Creek	Flrn	FW	The entire creek tributary to Lynches River
Cat Island Creek	Bftr	SFH	The entire creek from Beaufort River to Chowan Creek
Catawba-Wateree River	Cstr, Ffld, Kshw, Lctr, Rlnd, Smtr, York	FW	The entire river tributary to Santee River
Catfish Creek	Marn	FWsp	The entire creek tributary to Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Causeway Branch	Smtr	FW	The entire branch tributary to Second Mill Pond
Caw Caw Swamp	Aldl, Hmpt	FWsp	The entire swamp tributary to Whippy Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Cedar Creek	Cfld, Drln	FW	The entire creek tributary to Pee Dee River
Cedar Creek	Ffld, Rlnd	FW	The entire creek tributary to Broad River
Cedar Creek	Rlnd	FW	That portion of the creek outside the boundary of Congaree National Park
Cedar Creek	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of Congaree National Park to Wise Lake
Cedar Creek	Rlnd	ONRW(FW)	That portion of the creek beginning at Wise Lake to confluence with Congaree River
Cedar Creek Reservoir	Cstr, Ffld, Lntr	FW	The entire lake on Catawba River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Cemetery Creek (also called Silver Brook Creek)	Andn	FW	The entire creek tributary to Rocky River
Charleston Harbor	Chtn	SB	From Battery to the Atlantic Ocean
Charlies Creek	Abvl	FW	The entire creek tributary to Rocky River
Chattooga River	Ocne	FW	That portion of the river from its confluence with Opossum Creek to Tugaloo River
Chattooga River	Ocne	ORW(FW)	That portion of the river from the North Carolina line to its confluence with Opossum Creek
Chauga Creek (also called Jerry Creek)	Ocne	FW	The entire creek tributary to Chauga River
Chauga River	Ocne	ORW(FW)	That portion of the river from its headwaters to 1 mile above U.S. 76
Chauga River	Ocne	FW	That portion of the river from 1 mile above U.S. 76 to Tugaloo River
Chechessee Creek	Bfrt	ORW(SFH)	The entire creek tributary to Colleton River and Chechessee River
Chechessee River	Bfrt	SFH	The entire river tributary to Port Royal Sound
Chehaw River	Cltn	SFH	The entire river tributary to Combahee River
Cheohee Creek	Ocne	ORW(FW)	That portion of the creek from headwaters to end of U.S. Forest Service Land
Cheohee Creek	Ocne	FW	That portion of the creek from U.S. Forest Service Land to confluence with Tamassee Creek
Cherokee Creek	Andn	FW	The entire creek tributary to Hencoop Creek
Cherokee Creek	Chke	FW	The entire creek tributary to Broad River
Chickasaw Creek	Abvl	FW	The entire creek tributary to Little River
Chinners Swamp	Hory	FWsp	The entire swamp tributary to Brunson Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Choestoea Creek	Ocne	FW	The entire creek tributary to Hartwell Lake
Chowan Creek (also called Cowen Creek)	Bfrt	SFH	The entire creek tributary to Beaufort River
Church Creek	Chtn	ORW(SFH)	That portion of the creek from Wadmalaw Sound to Ravens Point
Church Creek	Chtn	SFH	That portion of the creek from Ravens Point to Hoopstick Island
Clambank Creek	Gtwn	ORW(SFH)	The entire creek tributary to Town Creek
Clark Creek	Flrn, Wmbg	FWsp	The entire creek tributary to Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Clark Creek	York	FW	The entire creek tributary to Bullocks <u>Bullock</u> Creek
Clark(s) Hill Reservoir (NDZ) (also called J. Strom Thurmond Lake)	Abvl, Mcmk	FW	The entire reservoir on Savannah River
Clark Sound	Chtn	SB	The entire sound tributary to Charleston Harbor
Clouds Creek	Slda	FW	The entire creek tributary to Lake Murray

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Coastal Waters	Bfirt, Chtn, Gtwn, Hory, Jspr	SFH	From the land to the 3 mile limit of State jurisdiction in the Atlantic Ocean
Coastal Waters		SFH	Coastal waters offshore from the land to the 3 mile limit of State jurisdiction in the Atlantic Ocean
Coastal Waters		SFH	From the land to the 3 mile limit of State jurisdiction in the Atlantic Ocean
Coldspring Branch	Gnvl	ORW(FW)	The entire branch tributary to Middle Saluda River
Colleton River	Bfirt	ORW(SFH)	The entire river tributary to Chechessee River
Combahee River	Bfirt, Cltn, Hmpt	FW	That portion of the river from confluence of Salkehatchie River with Little Salkehatchie River to saltwater intrusion at U.S. Hwy 17
Combahee River	Bfirt, Cltn	SFH	That portion of the river from saltwater intrusion at U.S. Hwy 17 to St. Helena Sound
Coneross Creek	Ocne	FW	That portion of the creek through Negro Fork Creek
Congaree Creek	Lxtn	FW	The entire creek tributary to Congaree River
Congaree River	Clhn, Lxtn, Rlnd	FW	The entire river tributary to Santee River
Contrary Swamp	Diln	FW	The entire swamp from its headwaters to the North Carolina line near South of the Border
Cooks Creek	Gtwn	ORW(SFH)	The entire creek between Old Man Creek and Debidue Creek
Cooper River	Bkly, Chtn	FW	That portion of the river from the confluence of West Branch Cooper River and East Branch Cooper River (the Tee) to a point approximately 30 miles above the junction of Ashley and Cooper Rivers
Cooper River	Bkly, Chtn	SB	That portion of the river below a point approximately 30 miles above the junction of Ashley and Cooper Rivers to the junction of Ashley and Cooper Rivers
Cooper River	Bfirt	ORW(SFH)	That portion of the river from New River to Ramshorn Creek
Cooper River	Bfirt	SFH	That portion of the river from Ramshorn Creek to Calibogue Sound
Coosaw River	Bfirt	SFH	The entire river tributary to St. Helena Sound
Coosawhatchie River	Aldl, Hmpt, Jspr	FW	That portion of the river from its headwaters to saltwater intrusion
Coosawhatchie River	Aldl, Hmpt, Jspr	SFH	That portion of the river from saltwater intrusion to Broad River
Copahee Sound	Chtn	ORW(SFH)	The entire sound
Corbin Creek	Ocne	ORW(TPGT)	The entire creek tributary to Devils Fork Creek
Corner Creek	Abvl	FW	The entire creek tributary to Little River
Coronaca Creek	Gnwd	FW	The entire creek tributary to Wilson Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Cowpen Swamp	Diln	FWsp	The entire swamp tributary to Bear Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Cowpens Creek	Chke	FW	The entire creek tributary to Little Thicketty Creek
Cox Branch	Bmbg	FW	The entire branch tributary to Lemon Creek
Cox Creek	Andn	FW	The entire creek tributary to Rocky Creek
Cox Camp Creek	Gnvl	TN	The entire creek tributary to Middle Saluda Creek River
Crabhaul Crab Haul Creek	Gtwn	ORW(SFH)	The entire creek tributary to Old Man Creek
Crane Creek	Pkns	TN	The entire creek tributary to Lake Keowee
Crane Creek	Rlnd	FW	The entire creek tributary to Broad River
Crims Creek	Nbry	FW	The entire creek tributary to Broad River
Crooked Creek	Mrlb	FW	The entire creek tributary to Pee Dee River
Crowders Creek	York	FW	The entire creek tributary to Lake Wylie
Cutoff Creek	Gtwn	SFH	The entire creek between Oyster Bay and Town Creek
Cypress Branch	Flrn, Smtr	FWsp	The entire branch tributary to Douglas Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Cypress Swamp	Dchr	FW	The entire swamp tributary to Ashley River
Dark Creek	Ocne	ORW(FW)	The entire creek tributary to East Fork Chattooga River
Darrell Creek	Chtn	SFH	The entire creek tributary to Wando River
Dawho River	Chtn	ORW(SFH)	The entire river from South Edisto River to North Edisto River
Debidue Creek	Gtwn	SFH	That portion of the creek from its headwaters to confluence with Cooks Creek, but not including tidal creeks on western shore between Bass Hole Bay and Cooks Creek
Debidue Creek	Gtwn	ORW(SFH)	That portion of the creek from confluence with Cooks Creek to North Inlet and all tidal creeks including those on western shore between Bass Hole Bay and Cooks Creek
Debordieu Channel	Gtwn	SFH	The entire channel tributary to Debidue Creek
Deep Creek	Flrn	FW	The entire creek tributary to Lynches River
Devils Fork Creek	Ocne	TN	That portion of the creek from confluence of Corbin Creek and Howard Creek to Lake Jocassee
Dewee's Inlet	Chtn	SFH	The entire inlet tributary to the Atlantic Ocean
Diversion Canal	Bkly	FW	The entire canal between Lake Marion and Lake Moultrie
Doolittle Creek	Chke	FW	The entire creek tributary to Broad River
Double Branch	Abvl	FW	The entire branch tributary to Long Cane Creek
Double Branch	Lxtn	FW	The entire branch tributary to Saluda River
Douglas Swamp	Clrn, Flrn, Smtr	FWsp	The entire swamp tributary to Pudding Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Dry Branch	Rlnd	ORW (FW)	That portion of the stream beginning at the boundary of the Congaree National Park to Weston Lake
Dry Branch	Rlnd	FW	That portion of the branch outside the boundary of the Congaree National Park
Dry Fork	Cstr	FW	The entire fork tributary to Sandy River
Duck Creek	Aldl	FW	The entire creek tributary to Coosawhatchie River
Duck Creek	Gtwn	ORW(SFH)	The entire creek tributary to Jones Creek
Duck Island Channel	Chtn	SA sp	The entire channel connecting two segments of the Ashley River (D.O. not less than 4 mg/4L)
Duncan Creek	Lrns, Nbry	FW	The entire creek tributary to Enoree River
Duncan Creek	Lxtn	FW	The entire creek tributary to Chinquapin Creek
Dunn Sound	Hory	SFH	The entire sound
Durbin Creek	Gnvl, Lrns	FW	The entire creek tributary to Enoree River
Dye Branch (also called Dry Branch)	York	FW	The entire branch tributary to Jones Branch
Eagle Creek	Chtn	SB	The entire creek tributary to Ashley River
Eastatoe Creek	Pkns	ORW(FW)	That portion of the creek from its headwaters to its confluence with Laurel Creek
Eastatoe Creek	Pkns	TPGT	That portion of the creek from its confluence with Laurel Creek to Lake Keowee
East Beards Creek	Andn	FW	The entire creek tributary to Wilson Creek
East Fork (also called Fork Creek)	Cfld	FW	The entire creek tributary to Lynches River
East Fork Chattooga River	Ocne	ORW(FW)	That portion of the river from the North Carolina line to its confluence with Indian Camp Branch
East Fork Chattooga River	Ocne	TN	That portion of the river from its confluence with Indian Camp Branch to Chattooga River
East Rock Creek	Andn	FW	The entire creek tributary to Broadway Creek
Edisto River	Chtn, Cltn	ORW(FW)	That portion of the river from U.S. 17 to its confluence with Dawho River and South Edisto River
Edisto River (Main Stem)	Orbg, Bmbg, Dchr, Cltn, Chtn	FW	That portion of the river from the confluence of North and South Forks to its confluence with South Edisto River and Dawho River U.S. 17
Eighteen Mile Creek	Pkns, Andn	FW	The entire creek tributary to Hartwell Lake
Emory Creek	Pkns	ORW(FW)	That portion of the creek from its headwaters to the northern boundary of Table Rock Resort property
Emory Creek	Pkns	TN	That portion of the creek from northern boundary of Table Rock Resort property to its confluence with Oolenoy River
Enoree River	Gnvl, Spbg, Lrns, Unin, Nbry	FW	The entire river tributary to Broad River
Fairforest Creek	Spbg, Unin	FW	The entire creek tributary to Tyger River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Fall Creek	Ocne	FW	The entire creek tributary to Chattooga River
Falls Creek	Gnvl	ORW(FW)	That portion of the creek from its headwaters to Lake Trammell
Falls Creek	Gnvl	TN	That portion of the creek from the dam at Lake Trammell to Gap Creek
Fields Cut	Jspr	SA	The entire stream
<u>Filbin Creek</u>	<u>Chtn</u>	<u>FW</u>	<u>That portion of the creek from its headwaters to the tide gates at Virginia Avenue</u>
<u>Filbin Creek</u>	<u>Chtn</u>	<u>SB</u>	<u>That portion of the creek from the tide gates at Virginia Avenue to Cooper River</u>
First Creek	Lxtn	FW	The entire creek tributary to Congaree Creek
Fishing Creek	Cstr, York	FW	The entire creek tributary to Catawba River
Fishing Creek	Chtn	ORW(SA)	That portion of the creek from its headwaters to a point 2 miles from its mouth
Fishing Creek	Chtn	ORW(SFH)	That portion of the creek from a point 2 miles from its mouth to its confluence with St. Pierre Creek
Fishing Creek	Chtn	ORW(SFH)	The entire creek tributary to Dawho River
Fishing Creek Lake	Cstr, Lntn	FW	The entire lake on Catawba River
Fishtrap Branch	Ocne	FW	The entire branch tributary to Chattooga River
Five Fathom Creek	Chtn	SFH	The entire creek tributary to Bull's Bay
Flagreed Creek	Abvl	FW	The entire creek tributary to Calhoun Creek
Folly River	Chtn	SFH	The entire river tributary to Stono river
Fork Creek	Cfld	FW	The entire creek tributary to Lynches River
Foster Creek	Chtn	SFH	The entire creek tributary to Wando River
Four Hole Swamp	Orbg, Dchr, Bkly, Clhn	FWsp	The entire swamp tributary to Edisto River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Four Mile Creek	Orbg	FW	The entire creek tributary to North Fork Edisto River
Foreteen Mile Creek	Lxtn	FW	The entire creek tributary to Twelve-Mile Creek
Frampton Creek	Chtn	ORW(SFH)	The entire creek tributary to Frampton Inlet
Frampton Inlet	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
Fripps Inlet	Bfrt	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
Frohawk Creek	Spbg	FW	The entire creek tributary to South Tyger River
Gaffney Creek	Chke	FW	The entire creek tributary to Broad River
Gap Creek	Gnvl	TN	The entire creek tributary to its confluence with Middle Saluda River
Garden Creek	Chtn	ORW(SFH)	The entire creek tributary to Toogoodoo Creek
Georges Creek (and branch from Easley)	Pkns	FW	The entire creek tributary to Saluda River
Gibson Creek	Chtn	ORW(SFH)	The entire creek tributary to Wadmalaw River
Gilder Creek (also called Gillard Creek)	Gnvl	FW	The entire creek tributary to Enoree River
Gills Creek	Rlnd	FW	The entire creek tributary to Congaree River
Golden Creek	Pkns	FW	The entire creek tributary to Twelve Mile Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Goose Creek	Bkly	FW	That portion of the creek from its headwaters to Goose Creek Reservoir dam
Goose Creek	Bkly	SB	That portion of the creek from Goose Creek Reservoir dam to Cooper River
Graham Creek	Chtn	SFH	The entire creek tributary to Bull's Bay
Grambling Gramling Creek	Orbg	FWsp	The entire creek tributary to Little Bull Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Granny's Quarter Creek	Kshw	FW	The entire creek tributary to Wateree River
Grapevine Branch	Bmbg	FW	The entire branch tributary to Lemon Creek
Grassy Run Branch	Cstr	FW	The entire branch tributary to Rocky Creek
Grays Sound	Chtn	SFH	The entire sound
Great Falls Reservoir	Cstr, Lctr	FW	The entire reservoir on Catawba River
<u>Great Pee Dee River</u>	<u>Cfld, Diln, Drln, Flrn, Marn, Mrlb, Wmbg</u>	<u>FW</u>	<u>That portion of the river from North Carolina line to its confluence with Thoroughfare Creek</u>
<u>Great Pee Dee River</u>	<u>Gtn</u>	<u>SB sp</u>	<u>That portion of the river from its confluence with Thoroughfare Creek to Winyah Bay (D.O. not less than daily average 5 mg/L and minimum 4 mg/L)</u>
Green Creek	Pkns	ORW(FW)	The entire creek tributary to Carrick Creek
Green Swamp	Smtr	FWsp	The entire swamp tributary to Pocotaligo River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Groundwaters	All	GB	The entire groundwaters of the State (unless otherwise listed)
Guerin Creek	Bkly, Chtn	SFH	The entire creek tributary to Wando river
Gulley Branch	Flrn	FW	The entire branch tributary to Jefferies Creek
Gum Branch	Dchr	FWsp	The entire branch tributary to Indian Field Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Haile Gold Mine Creek	Lctr	FW	The entire creek tributary to Little Lynches River
Halfmoon Branch	Bmbg	FW	The entire branch tributary to Ghents Branch
Hamlin Sound	Chtn	SFH	The entire sound
Hanging Rock Creek	Lctr, Kshw	FW	The entire creek tributary to Little Lynches River
Harbor River	Bfrt	ORW(SFH)	The entire river tributary to St. Helena Sound and Fripps Inlet
Hard Labor Creek	Gnwd, Mcmk	FW	The entire creek tributary to Stevens Creek
Harris Mill Branch	Gnwd	FW	The entire branch tributary to Rocky Creek
Hartwell Lake (NDZ)	Andn, Ocne, Pkns	FW	All that portion within South Carolina
Haulover Creek	Gtn	SB	The entire creek between Mud Bay and Jones Creek
Hawe Creek	Mcmk	FW	The entire creek tributary to Lake Strom Thurmond

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Hayes Swamp	Diln	FWsp	The entire swamp tributary to Little Pee Dee River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Head Foremost Creek	Gnvl	ORW(FW)	The entire creek tributary to Middle Saluda River
Hellhole Creek	Lxtn	FW	The entire creek tributary to Lightwood Knot Creek
Hembree Creek	Andn	FW	The entire creek tributary to Hartwell Lake
Hemedy Creek (also called Ramsey Creek)	Ocne	FW	The entire creek tributary to Chauga River
Hencoop Creek	Andn	FW	The entire creek tributary to Rocky Creek
Hobcaw Creek	Chtn	SFH	The entire creek tributary to Wando River
Hog Inlet/Cherry Grove Inlet	Hory	SFH	The entire inlet
Hollow Creek	Lxtn	FW	The entire creek tributary to Lake Murray
Horlbeck Creek	Chtn	SFH	The entire creek tributary to Wando River
Horse Creek	Aikn	FW	The entire creek tributary to Savannah River
Howard Creek	Ocne	ORW(TPGT)	That portion of the creek from its headwaters to 0.3 mile below Hwy 130 above the flow augmentation system at the Bad Creek pumped storage station dam
Howard Creek	Ocne	TN	That portion of the creek from just above the flow augmentation system at the Bad Creek pumped storage station dam to Devils Fork Creek
Hunting Swamp	Hory	FW	The entire swamp tributary to Little Pee Dee River
Husbands Creek	Mrlb	FW	The entire creek tributary to Pee Dee River
Indian Camp Branch	Ocne	ORW(FW)	The entire branch tributary to East Fork Chattooga River
Indian Creek	Lrns	FW	The entire creek tributary to Enoree River
Indian Field Swamp	Dchr, Orbg	FWsp	The entire swamp tributary to Polk Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Ira Branch	Ocne	ORW(FW)	The entire branch tributary to the Chattooga River
Irene Creek	Chke	FW	The entire creek tributary to Thicketty Creek
J. Strom Thurmond Lake (also called Clarks Hill Reservoir) (NDZ)	Abvl, Mcmk	FW	The entire lake on Savannah River
Jackies Branch	Pkns	TN	The entire branch tributary to the confluence with Laurel Fork Creek
Jacks Creek	Ocne	ORW(FW)	The entire creek tributary to the East Fork Chattooga River
Jackson Branch	Aldl, Hmpt	FW	The entire branch tributary to Whippy Swamp
Jackson Creek	Ffld	FW	The entire creek tributary to Little River
Jackson Creek	Rlnd	FW	The entire creek tributary to Gills Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Jacobs Creek	Lrns	FW	The entire creek tributary to Sand Creek
Jeffries Creek	Drln, Flrn	FWsp	The entire creek tributary to Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Jeremy Inlet	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
Jericho Creek	Bfrt	SA	The entire creek tributary to Battery Creek
Jerry Creek	Ocne	FW	The entire creek tributary to Chauga River
Jimmies Creek	Spbg	FW	The entire creek tributary to the Tyger River
Johnson Creek	Bfrt	ORW(SFH)	The entire creek tributary to Harbor River and the Atlantic Ocean
Johnsons Swamp (also called Summerhouse Branch and Bartons Branch)	Gtwn, Wmbg	FWsp	The entire swamp tributary to Black River <u>Horse Pen Swamp</u> (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Jones Creek	Gtwn	SB	That portion of the creek from its confluence with Mud Bay to its confluence with Nancy Creek
Jones Creek	Gtwn	SFH	That portion of the creek from its confluence with Nancy Creek to a point midway between its confluence with Duck Creek and Noble Slough
Jones Creek	Gtwn	ORW(SFH)	That portion of the creek from a point midway between its confluence with Duck Creek and Noble Slough to North Inlet
Jordan Branch	Brwl	FW	The entire branch tributary to Toby Creek
Julian Creek	Gnvl	ORW(FW)	The entire creek tributary to Matthews Creek
Jumping Branch	Ocne	TN	That portion of the branch From its headwaters to Lake Cherokee
Kate Fowler Branch	Gnwd	FW	The entire branch tributary to Ninety-Six Creek
Kellers Creek	Abvl	FW	The entire creek tributary to McCord Creek
Kelsey Creek	Spbg	FW	The entire creek tributary to Fairforest Creek
Kilgore Branch	Drln	FW	The entire branch tributary to Black Creek
King Creek	Ocne	ORW(FW)	The entire creek tributary to Chattooga River
Kinley Creek	Lxtn	FW	The entire creek tributary to Saluda River
Knox Creek	Ocne	FW	That portion of the creek from Lake Cheohee Dam to the confluence with Cheohee Creek
Koon Branch	Lxtn	FW	The entire branch tributary to Rawls Creek
Lake Cheohee	Ocne	FW	The entire lake
Lake Cherokee (also called Lake Isaquenna)	Ocne	FW	The entire lake
Lake Greenwood	Gnwd, Lrns, Nbry	FW	The entire lake on Saluda River
Lake Hartwell (NDZ)	Ocne, Pkns, Andn	FW	All that portion within South Carolina
Lake Jocassee	Ocne	TPGT	The entire lake
Lake Keowee (NDZ)	Andn, Pkns	FW	The entire lake
Lake Lanier	Gnvl	FW	The entire lake on Vaughn Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Lake Marion	Bkly, Clrn, Orbg, Smtr	FW	The entire lake
Lake Moultrie	Bkly	FW	The entire lake
Lake Murray (NDZ)	Lxtn, Nbry, Rlnd, Slda	FW	The entire lake on Saluda River
Lake Rabon	Lrns	FW	The entire lake on Rabon Creek, North Rabon Creek, and South Rabon Creek
Lake Richard B. Russell	Abvl, Andn	FW	The entire lake
Lake Rotary	Gnvl	FW	The entire lake
Lake Secession	Abvl, Andn	FW	The entire lake on Rocky River
Lake Sudy	Gnvl	FW	The entire lake
Lake Swamp	Drln, Flrn	FWsp	The entire lake tributary to Sparrow Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lake Swamp (Lake City, also called Lynches Lake)	Flrn, Wmbg	FWsp	The entire lake (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lake Swamp	Hory	FWsp	The entire lake tributary to Little Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lake Trammell	Gnvl	TN	The entire lake
Lake Tugaloo	Ocne	TPGT	The entire lake
Lake Wylie (NDZ)	York	FW	The entire lake on Catawba River
Langston Creek (unnamed Creek to Reedy River 1 1/2 mile above Long Branch)	Gnvl	FW	The entire creek tributary to Reedy River
Laurel Branch	Pkns	ORW(FW)	The entire branch tributary to Eastatoe Creek
Laurel Creek	Gnvl	FW	The entire creek tributary to Reedy River
Laurel Creek	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
Laurel Fork Creek	Pkns	TN	The entire creek tributary to Lake Jocassee
Lawsons Fork Creek	Spbg	FW	The entire creek tributary to Pacolet River
Leadenwah Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
Lee Swamp	Smtr	FWsp	The entire swamp tributary to Rocky Bluff Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lemon Creek	Bmbg	FWsp	The entire creek tributary to Little Salkehatchie River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lick Creek	Lrns	FW	The entire creek tributary to North Rabon Creek
Lick Log Creek	Ocne	FW	That portion of the creek from its headwaters through Thrift Lake
Lick Log Creek	Ocne	ORW(FW)	That portion of the creek from Thrift Lake to Chattooga River
Lightwood Knot Creek	Lxtn	FW	The entire creek tributary to North Fork Edisto River
Limber Pole Creek	Ocne	TN	The entire creek tributary to Devils Fork Creek
Limestone Creek	Chke	FW	The entire creek tributary to Broad River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Little Beaverdam Creek	Andn	FW	The entire creek tributary to Rocky River
Little Boggy Swamp	Drln	FW	The entire swamp tributary to Big Boggy Swamp
Little Eastatoe Creek	Pkns	TPGT	That portion of the creek from its headwaters to its confluence with Eastatoe Creek
Little Fork Creek	Cfld	FW	The entire creek tributary to East Fork or Fork Creek
Little Horse Creek	Aikn	FW	The entire creek tributary to Horse Creek
Little Jones Creek	Gtwn	SFH	The entire creek tributary to Jones Creek
Little Lynches River (also River (also called Lynches Creek))	Krsh, Lctr	FW	The entire river tributary to Lynches River
Little Pee Dee River	Diln, Marn, Mrlb	FW	That portion from its headwaters to the confluence with Lumber River
Little Pee Dee River	Hory, Marn	ORW(FW)	That portion of the river from the confluence with Lumber River to the confluence with Great Pee Dee River
Little Pine Tree Creek	Krsh	FW	The entire creek tributary to Big Pine Tree Creek
Little River	Abvl, Mcmk	FW	The entire river tributary to Lake Strom Thurmond
Little River	Ffld	FW	The entire river tributary to Broad River
Little River	Lrns, Nbry	FW	The entire river tributary to Saluda River
Little River	Ocne	FW	The entire river tributary to Lake Hartwell
Little River Inlet	Hory	SFH	The entire inlet from its confluence with the Atlantic Intracoastal Waterway to its confluence with the Atlantic Ocean
Little Salkehatchie River	Bmbg, Cltn	FW	The entire river tributary to Salkehatchie River
Little Saluda River	Slda	FW	The entire river tributary to Lake Murray
Little Sandy River	Cstr	FW	The entire river tributary to Sandy River
Little Thicketty Creek	Chke	FW	The entire creek tributary to Thicketty Creek
Long Branch	Abvl, Andn	FW	The entire branch tributary to Rocky River
Long Cane Creek	Abvl, Mcmk	FW	The entire creek tributary to Lake Strom Thurmond
Long Creek	Chtn	ORW(SFH)	The entire creek tributary to Steamboat Creek
Long Creek	Ocne	FW	The entire creek tributary to Chattooga River
Lorick Branch	Lxtn	FW	The entire branch tributary to Saluda River
Lower Toogoodoo Creek	Chtn	SFH	That portion of the creek from its headwaters to a point 3 miles from its mouth
Lower Toogoodoo Creek	Chtn	ORW(SFH)	That portion of the creek from a point 3 miles from its mouth to its confluence with Toogoodoo Creek
Ludlow Branch	Mcmk	FW	The entire branch tributary to Lake Strom Thurmond

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Lumber River	Diln, Hory, Marn	FW	The entire river tributary to Little Pee Dee River
Lynches Lake <u>(also called Lake Swamp)</u>	Flrn, Wmbg	FWsp	The entire lake (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Lynches River	Cfld, Diln, Flrn, Krsh, Lctr, Lee, Smtr	FW	The entire river tributary to Pee Dee River
Mad Dog Branch	Pkns	FW	The entire branch tributary to Georges Creek
Maidendown Swamp	Marn	FWsp	The entire swamp tributary to Buck Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Maple Creek	Spbg	FW	The entire creek tributary to South Tyger River
Maple Swamp	Diln	FWsp	The entire swamp tributary to Little Pee Dee River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Mark Bay	Chtn	ORW(SFH)	The entire bay
Martin Creek	Ocne	FW	The entire creek tributary to Lake Hartwell
Matthews Creek	Gnvl	ORW(FW)	That portion of the Creek from its headwaters to the end of State land in the Mountain Bridge area
Matthews Creek	Gnvl	TN	That portion of the creek from the end of State land in the Mountain Bridge area to its confluence with South Saluda River
May River	Bfrt	ORW(SFH)	The entire river tributary to Calibogue Sound
McAlpine Creek	Lctr	FW	The entire creek tributary to Sugar Creek
McCall Branch	Flrn	FW	The entire branch tributary to Lynches River
McCord Creek	Abvl	FW	The entire creek tributary to Long Cane Creek
McIntosh Mill Stream	Drln	FW	The entire stream tributary to Black Creek
McKenzie Creek	Rlnd	FW	That portion of the creek outside the boundary of the Congaree National Park
McKenzie Creek	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of the Congaree National Park to its confluence with Toms Creek
McKinneys Creek	Ocne	TN	That portion of the creek from its headwaters to Hwy 25
McKinneys Creek	Ocne	FW	That portion of the creek from Hwy 25 to Lake Keowee
McLeod Creek (also called Tom Point Creek)	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
Meings Creek (also called Meng Creek)	Unin	FW	The entire creek tributary to Broad River
Middle Branch	Flrn	FWsp	The entire branch tributary to Jeffries Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Middle Pen Swamp	Orbg	FWsp	The entire swamp tributary to Four Hole Swamp (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Middle Saluda River	Gnvl	ORW(FW)	That portion of the river from its headwaters to the end of State Land at Jones Gap State Park land
Middle Saluda River	Gnvl	TN	That portion of the river from Jones Gap State Park land to Oil Camp Creek
Middle Swamp	Drln, Flrn	FWsp	The entire swamp tributary to Jeffries Creek (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Middle Tyger River	Gnvl, Spbg	FW	The entire river tributary to North Tyger River
Mill Branch	Orbg	FW	The entire branch tributary to North Fork Edisto River
Mill Creek	Chke	FW	The entire creek tributary to Limestone Creek
Mill Creek	Ffld	FW	The entire creek tributary to Little River
Mill Creek	Gnvl	FW	That portion of the creek from its headwaters to the end of Pleasant Ridge State Park land including the unnamed lake
Mill Creek	Ocne	TN	That portion of the creek from its headwaters to Burgess Creek
Mill Creek	Pkns	TPGT	The entire creek tributary to Eastatoe Creek
Mill Creek	Rlnd	FW	The entire creek tributary to Congaree River
Mill Creek	Spbg	FW	The entire creek tributary to Enoree River
Mill Creek	Smttr	FW	The entire creek tributary to Lake Marion
Millpond Branch	Flrn	FW	The entire branch tributary to Lynches River
Milton Creek	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre <u>Shingle</u> Creek
Mine Creek	Slda	FW	The entire creek tributary to Little Saluda River
Mitchell Creek	Unin	FW	The entire creek tributary to Fairforest Creek
Molasses Creek	Chtn	SFH	The entire creek tributary to Wando River
Moody Creek	Ocne	TN	That portion of the creek from its headwaters to its confluence with Cantrell Creek
Morgan River	Bfrt	SFH	The entire river tributary to St. Helena Sound
Mosquito Creek	Cltn	ORW(SFH)	That portion of the creek from Bull Cut to South Edisto River
Moss Mill Creek	Ocne	ORW(FW)	The entire creek tributary to Chattooga River
Mountain Creek	Gnvl	FW	The entire creek tributary to Enoree River
Mountain Creek	Lrns	FW	The entire creek tributary to North Rabon Creek
Mud Creek (also called Fields Cut)	Chtn	ORW(SFH)	The entire creek tributary to South Edisto River
Mud River	Jspr	SA	The entire river between Savannah River and Wright River
Mud Creek	Gtnw	SFH	The entire creek between Oyster Bay and Town Creek
<u>Mud River (also called Fields Cut)</u>	<u>Jspr</u>	<u>SA</u>	<u>The entire river between Savannah River and Wright River</u>
Muddy Creek	Flrn, Wmbg	FWsp	The entire creek tributary to Clarks <u>Clark</u> Creek (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Murrells Inlet	Gtnw	SFH	The entire inlet tributary to the Atlantic Ocean

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Myers Creek	Rlnd	FW	That portion of the creek outside the boundary of the Congaree National Park
Myers Creek	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of the Congaree National Park to its confluence with Cedar Creek
Naked Creek	Mrlb	FW	The entire creek tributary to Pee Dee River
Nancy Creek	Gtwn	SB	The entire creek tributary to Jones Creek
New Chehaw River	Cltn	SFH	The entire river tributary to St. Helena Sound
New Cut	Chtn	SFH	The entire cut between Church Creek and Stono River
New River	Bfrr, Jspr	SA	The entire river tributary to the Atlantic Ocean
Newman Swamp	Drln	FWsp	The entire swamp tributary to Sparrow Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Ninety Six Creek	Gnwd	FW	The entire creek tributary to Wilson Creek
No Mans Friend Creek	Gtwn	SB	The entire creek between Mud Bay and Oyster Bay
Noble Slough	Gtwn	SB	The entire slough between Oyster Bay and Jones Creek
Norris Creek	Abvl	FW	The entire creek tributary to Long Cane Creek
North Edisto River	Chtn	ORW(SFH)	That portion of the river from its headwaters to the Atlantic Intracoastal Waterway
North Edisto River	Chtn	SFH	That portion of the river from the Atlantic Intracoastal Waterway to Steamboat Creek
North Edisto River	Chtn	ORW(SFH)	That portion of the river from Steamboat Creek to the Atlantic Ocean
North Fork Edisto River	Aikn, Lxtn, Orbg	FW	The entire river tributary to Edisto River
North Fork Little River	Ocne	TPGT	That portion of the river from the confluence of Mill Creek and Burgess Creek to Hwy 11
North Fork Little River	Ocne	FW	That portion of the river from Hwy 11 to its confluence with Little River
North Inlet	Gtwn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
North Pacolet River	Spbg	FW	The entire river tributary to Pacolet River
North Rabon Creek	Lrns	FW	The entire creek tributary to Rabon Creek
North Saluda River	Gnvl	ORW(FW)	That portion of the river from its headwaters to S.C. 42
North Saluda River	Gnvl	FW	That portion of the river from S.C. 42 to Saluda River
North Santee River	Gtwn	FW	That fresh water portion of the river
North Santee River	Gtwn	SA	That portion of the river from U.S. Hwy 17 to 1000 ft below the Atlantic Intracoastal Waterway
North Santee River	Gtwn	ORW(SFH)	That portion of the river from U.S. Hwy 17 from 1000 feet below the Atlantic Intracoastal Waterway to the Atlantic Ocean
North Tyger River	Spbg	FW	The entire river tributary to Tyger River
Ocella Creek	Chtn	ORW(SFH)	The entire creek tributary to South Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Oil Camp Creek	Gnvl	ORW (FW)	That portion of the creek from its headwaters to the end of State land at Ceasars Head State Park
Oil Camp Creek	Gnvl	TN	That portion of the creek from Ceasars Head State Park land to Middle Saluda River
Okatie River	Bfrt	ORW(SFH)	The entire river tributary to Colleton River
Old Chehaw River	Cltn	SFH	The entire river tributary to Combahee River
Old Dead River	Rlnd	ORW(FW)	The entire river within the boundary of the Congaree National Park
Old House Creek	Bfrt	SFH	The entire creek tributary to Fripps Inlet
Old Man Creek	Gtnw	ORW(SFH)	The entire creek tributary to Town Creek
Olive Branch	Lxtn	FW	The entire branch tributary to Duncan Creek
Oolenoy River	Pkns	TPGT	That portion of the river from its headwaters to Emory Creek
Oolenoy River	Pkns	FW	That portion of the river from Emory Creek to its confluence with South Saluda River
Opossum Creek	Ocne	FW	The entire creek tributary to Chattooga River
Oyster Bay	Gtnw	SB	The entire bay between No Mans Friend Creek and Noble Slough
Oyster House Creek	Chtn	ORW(SFH)	The entire creek tributary to Wadmalaw River
Pacolet River	Chke, Spbg, Unin	FW	The entire river tributary to Broad River
Palmetto Swamp	Hory	FW	The entire swamp tributary to Little Pee Dee River
Panther Creek	Mrlb	FW	The entire creek tributary to Beaverdam Creek
Park Creek	Abvl	FW	The entire creek tributary to Little River
Payne Branch	Gnvl	FW	The entire branch tributary to South Rabon Creek
Pee Dee River	Cfld, Dilm, Drln, Flrn, Marn, Mrlb, Wmbg	FW	That portion of the river from North Carolina line to its confluence with Thoroughfare Creek
Pee Dee River	Gtnw	SB-sp	That portion of the river from its confluence with Thoroughfare Creek to Winyah Bay (D.O. not less than daily average 5 mg/l and minimum 4 mg/l)
Pen Branch	Orbg	FW	The entire branch tributary to North Fork Edisto River
Peoples Creek (also called Gaffney Creek and Town Creek)	Chke	FW	The entire creek tributary to Broad River
Pig Pen Branch	Ocne	ORW(FW)	The entire branch tributary to Lick Log Creek
Pinckney Branch	Ocne	FW	The entire branch tributary to Chattooga River
Pinnacle Lake	Pkns	ORW(FW)	The entire lake
Pleasant Meadow Swamp	Hory	FWsp	The entire swamp tributary to Lake Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Pocalla Creek	Smtr	FWsp	The entire creek tributary to Pocatigo River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Pocotaligo River	Clrn, Smtr	FWsp	The entire river tributary to Black River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Polk Swamp	Dchr, Orbg	FWsp	The entire swamp tributary to Edisto River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Port Royal Sound	Bfrt	SFH	The entire sound tributary to the Atlantic Ocean
Price Inlet	Chtn	ORW(SFH)	The entire inlet tributary to the Atlantic Ocean
Privateer Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
Providence Branch	Chke	FW	That portion of the branch below County Road 793 to Cherokee Creek
Pudding Swamp	Clrn, Smtr, Wmbg	FWsp	The entire swamp tributary to Black River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Pye Branch	Flrn	FWsp	The entire branch tributary to Jeffries Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Rabon Creek	Lrns	FW	That portion of the creek from the confluence of North Rabon Creek and South Rabon Creek, in Lake Rabon, to its confluence with Lake Greenwood
Ralston Creek	Bkly	SFH	The entire creek tributary to Wando River
Ramsey Creek	Ocne	FW	The entire creek tributary to Chauga River
Ramshorn Creek	Bfrt	SFH	The entire creek between New River and Cooper River
Rathall Creek	Chtn	SFH	The entire creek tributary to Wando River
Rawls Creek	Lxtn, Rlnd	FW	The entire creek tributary to Saluda River
Red Bank Creek	Lxtn	FW	The entire creek tributary to Congaree River
Red Bank Creek	Slda	FW	The entire creek tributary to Mine Creek
Reedy Branch	Ocne	FW	The entire branch tributary to Chattooga River
Reedy Cove Creek	Pkns	FW	The entire creek tributary to Eastatoe Creek
Reedy Fork Branch	Lrns	FW	The entire branch tributary to Little River
Reedy River	Gnvl, Lrns	FW	The entire river tributary to Lake Greenwood
Rices Creek	Pkns	FW	The entire creek tributary to Twelvemile Creek
Richardson Branch	Aldl	FW	The entire branch tributary to Coosawhatchie River
Robb Senn Branch	Lxtn	FW	The entire branch tributary to Saluda River
Rock Branch	Gnvl	TN	The entire branch tributary to Middle Saluda River
Rock Creek	Pkns	TN	That portion of the creek within South Carolina
Rocky Bluff Swamp	Lee, Smtr	FWsp	The entire swamp tributary to Black River <u>Scape</u> <u>Ore Swamp</u> (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Rocky Bottom Creek	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
<u>Rocky Branch</u>	<u>Gnvl</u>	<u>TN</u>	<u>The entire branch tributary to Middle Saluda River</u>
Rocky Creek	Cstr	FW	The entire creek (including Little Rocky Creek) tributary to Cedar Creek Reservoir
Rocky Creek	Mcmk	FW	The entire creek tributary to Hard Labor Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Rocky Creek (also called Rock Creek)	Gnwd	FW	The entire creek tributary to Coronaca Creek
Rocky River	Abvl, Andn	FW	The entire river tributary to Savannah River
Rose Branch	Drln	FW	The entire branch tributary to Lynches River
Rosemary Creek	Brwl	FW	The entire creek tributary to Salkehatchie River
Running Lake Creek	Rlnd	FW	That portion of the creek outside the boundary of the Congaree National Park
Running Lake Creek	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of the Congaree National Park to its confluence with Toms Creek
Russell Russel Creek	Chtn	ORW(SFH)	The entire creek tributary to Dawho <u>Steamboat Creek</u>
St. Helena Sound	Bfrt, Cltn	SFH	The entire sound tributary to the Atlantic Ocean
Salkehatchie River	Aldl, Bmbg, Brwl, Cltn, Hmpt	FW	That portion of the river from its headwaters through to <u>to the confluence with the Little Salkehatchie River to saltwater intrusion at U.S. Hwy 17</u>
Salkehatchie River	Bfrt, Cltn, Hmpt	SFH	That portion of the river from saltwater intrusion at U.S. Hwy 17 to St. Helena Sound
Salt Water Creek	Jspr	SB	The entire creek tributary to Wright Creek
Saluda Lake	Gnvl	FW	The entire lake on Saluda River
Saluda River (Main stem)	Abvl, Andn, Gnvl, Grwd, Lrns, Lxtn, Nbry, Pkns, Rlnd, Sllda	FW	The entire river tributary to Lake Murray
Saluda River (Main stem)	Lxtn, Rlnd	TPGT sp	That portion from the Lake Murray Dam to the confluence with Broad River (D.O. not less than daily average 5 mg/4L, a running thirty day average of 5.5 mg/4L, with a low of 4.0 mg/4L)
Saluda River (Main stem) Unnamed Tributaries	Lxtn, Rlnd	FW	All tributaries to the main stem of Saluda River from the Lake Murray Dam to the confluence with Broad River
Sampit River	Gtwn	FWsp	That portion of the river from the headwaters to saltwater intrusion (D.O. not less than 4 mg/l, pH 5.0 – 8.5)
Sampit River	Gtwn	SB	That portion of the <u>The entire</u> river from saltwater intrusion to Winyah Bay
Sampson Island Creek	Cltn	ORW(SFH)	The entire creek tributary to South Edisto River <u>Mosquito Creek</u>
Sand Creek	Ffld	FW	The entire creek tributary to Jackson Creek
Sand Creek	Lrns	FW	The entire creek tributary to Duncan Creek <u>Millers Fork</u>
Sand Creek	Chtn	ORW(SFH)	The entire creek tributary to Steamboat Creek
Sanders Branch	Hmpt	FWsp	The entire branch tributary to Coosawatchie River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Sanders Creek	Krsh	FW	The entire creek tributary to Wateree River
Sandy River	Cstr	FW	The entire creek tributary to Broad River
Santee River	Bkly, Clrn, Gtwn, Wmbg	FW	That portion of the river below Lake Marion to North and South Santee Rivers
Santee River	Clhn, Smtr	FW	From junction of Congaree and Wateree Rivers to Lake Marion
Santee River (North and South)	Bkly, Chtn, Gtwn		See North Santee River and South Santee River (Berkeley, Charleston, and Georgetown Counties)
Savannah Creek	Bmbg, Cltn	FW	The entire creek tributary to Salkehatchie River
Savannah Creek	Hory	FW	The entire creek tributary to Chinnors Swamp
Savannah River	Abvl, Andn	TPGT	That portion of the river from Lake Hartwell Dam to the headwaters of Lake Russell
Savannah River	Abvl, Aikn, Aldl, Andn, Brwl, Efld, Hmpt, Mcmk	FW	That portion of the river from the headwaters of Lake Russell to Seaboard Coastline RR
Savannah River	Hmpt, Jspr	SB sp	That portion of the river from Seaboard Coastline RR to Ft. Pulaski (D.O. not less than daily average of 5 mg/4L and minimum 4 mg/4L)
Savannah River	Jspr	SA	That portion of the river from Ft. Pulaski to the Atlantic Ocean
Sawhead Branch	Ocne	FW	The entire branch tributary to Opossum Creek
Sawmill Branch	Bkly, Dchr	FW	The entire branch tributary to Dorchester Creek
Sawmill Creek	Bfrt	ORW(SFH)	The entire creek tributary to Colleton River
Sawney Creek	Abvl, Mcmk	FW	The entire creek tributary to Little River
Sawneys Creek	Ffld, Kshw	FW	The entire creek tributary to Wateree River
Schewbough Branch (also called Skeebo Branch)	Hory	FWsp	The entire branch tributary to the North Carolina line (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Scott Creek	Nbry	FW	The entire creek tributary to Bush River
Scott Creek	Chtn	ORW(SFH)	The entire creek from Big Bay Creek to Jeremy Inlet
Scouter Creek	Lxtn	FW	The entire creek tributary to Congaree Creek
Sea Creek Bay	Gtwn	ORW(SFH)	The entire bay tributary to Old Man Creek
Second Creek	Lxtn	FW	The entire creek tributary to First Creek
Sewee Bay	Chtn	SFH	The entire bay
Shanklin Creek	Andn	FW	The entire creek tributary to Three and Twenty Mile Creek
Shaver Creek (also called Cheves Creek)	Efld	FW	The entire creek tributary to Stevens Creek
Shaw Creek	Aikn, Efld	FW	The entire creek tributary to South Fork Edisto River
Shell Creek	Lrns	FW	The entire creek tributary to Bush River
Shem Creek	Chtn	SB	The entire creek tributary to Charleston Harbor
Shingle Creek	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Shoulder Bone Branch	Ocne	FW	The entire branch tributary to Sawhead Branch
Side of Mountain Creek	Pkns	ORW(FW)	The entire creek tributary to Eastatoe Creek
Silver Brook Creek	Andn	FW	The entire creek tributary to Rocky River
Six Mile Creek	Lxtn	FW	The entire creek tributary to Congaree Creek
Six and Twenty Creek	Andn	FW	The entire creek tributary to Lake Hartwell
Sixty Bass Creek	Gtwn	SFH	That portion of the creek from its confluence with Town Creek to a point 0.4 miles from its confluence with Town Creek
Sixty Bass Creek	Gtwn	ORW(SFH)	That portion of the creek from a point 0.4 miles from its confluence with Town Creek to North Inlet
Skeebo Branch	Hory	FWsp	The entire branch tributary to the North Carolina line (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Slatten Branch	Ocne	ORW(FW)	The entire branch tributary to East Fork Chattooga River
Smeltzer Creek	Ocne	TN	That portion of the creek from its headwaters to Hwy 130
Smeltzer Creek	Ocne	TPGT	That portion of the creek from Hwy 130 to North Fork Little River
Smith Branch	Rlnd	FW	The entire branch tributary to Broad River
Smith Swamp	Marn	FWsp	The entire swamp tributary to Catfish Creek (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
South Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
South Edisto River	Chtn, Cltn	ORW(SFH)	That portion of the river from Dawho River to Mud Creek
South Edisto River	Chtn, Cltn	SFH	That portion of the river from Mud Creek to the Atlantic Ocean
South Fork Edisto River	Aikn, Bmbg, Brwl, Efld, Orbg	FW	The entire river tributary to North Fork Edisto River
South Fork Kings Creek	Nbry	FW	The entire creek tributary to Enoree River
South Pacolet River	Gnvl, Spbg	TN	That portion of the river from its headwaters to Hwy 116
South Pacolet River	Gnvl, Spbg	FW	That portion of the river from Hwy 116 to Pacolet River
South Rabon Creek	Gnvl, Lrns	FW	The entire creek tributary to Rabon Creek
South Saluda River	Gnvl, Pkns	ORW(FW)	That portion of the river from its headwaters to Table Rock Reservoir Dam
South Saluda River	Gnvl, Pkns	TPGT	That portion of the river from Table Rock Reservoir Dam to Hwy 8
South Saluda River	Gnvl, Pkns	FW	That portion of the river from Hwy 8 to junction with North Saluda River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
South Santee River	Bkly, Chtn, Gtwn	FW	That freshwater portion of the river
South Santee River	Bkly, Chtn, Gtwn	SA	That portion of the river from U.S. Hwy 17 to 1000 feet below the Atlantic Intracoastal Waterway
South Santee River	Bkly, Chtn, Gtwn	ORW(SFH)	That portion of the river from U.S. Hwy 17 from 1000 feet below the Atlantic Intracoastal Waterway to the Atlantic Ocean
South Tyger River	Gnvl, Spbg	FW	The entire river tributary to Tyger River
Spain Creek	Gnvl	FW	The entire creek tributary to Saluda River
Sparrow Swamp	Drln, Flrn, Lee	FWsp	The entire swamp tributary to Lynches River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Spears Creek	Krsh, Rlnd	FW	The entire creek (and its tributaries) from its headwaters to its confluence with Wateree River
St. Pierre Creek	Chtn	ORW(SFH)	The entire creek tributary to South Edisto River
Steamboat Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
Steele Creek	York	FW	The entire creek tributary to Sugar Creek
Stevens Creek	Efld, Mcmk	FW	The entire creek tributary to Savannah River
Stitt Branch	Ffld	FW	The entire branch tributary to Jackson Creek
Stoddard Creek	Gnvl, Lrns	FW	The entire creek tributary to North Rabon Creek
Stono River	Chtn	SFH	That portion of the river extending eastward to S.C.L. Railroad Bridge
Stono River	Chtn	SFH	That portion of the river from the S.C.L. Railroad Bridge to Abbapoola Creek
Stono River	Chtn	SFH	That portion of the river from Abbapoola Creek to Folly River
Stoops Creek	Lxtn, Rlnd	FW	The entire creek tributary to Saluda River
Store Creek	Chtn	ORW(SFH)	The entire creek tributary to St. Pierre Creek
Story River	Bfrt	SFH	The entire river to Trenchards Inlet and Fripps Inlet
Stuart Creek	Ffld	FW	The entire creek tributary to Jackson Creek
Sugar Creek	Lctr, York	FW	The entire creek tributary to Catawba River
Summerhouse Branch (also called Bartons Branch and Johnsons Swamp)	Gtwn, Wmbg	FWsp	See Bartons Swamp and Johnsons Swamp (Georgetown and Williamsburg Counties) The entire branch tributary to Horse Pen Swamp (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Swaford Creek	Ocne	TN	The entire creek tributary to East Fork Chattooga River Whetstone Creek
Sweetwater Branch	Efld	FW	The entire branch tributary to Stevens Creek
Swift Creek	Krsh, Smtr	FW	The entire creek tributary to Wateree River
Swinton Creek	Chtn	ORW(SFH)	The entire creek tributary to Lower Toogoodoo Creek
Tailrace Canal	Bkly	FW	That portion of the canal from Lake Moultrie Dam to Biggin Creek
Tamassee Creek	Ocne	ORW(FW)	That portion of the creek from its headwaters to end of U.S. Forest Service Land

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Tamassee Creek	Ocne	FW	That portion of the creek from U.S. Forest Service Land to its confluence with Cheohee Creek
Thicketty Creek	Chke	FW	That portion of the creek below the Cowpens discharge tributary to Broad River
Thompson Creek	Cfld	FW	The entire creek tributary to Pee Dee River
Thompson River	Ocne	TN	That portion of the river from State Line to Lake Jocassee
Three Creeks	Mrlb	FW	The entire creek tributary to Pee Dee River
Tilly Branch	Ocne	FW	The entire branch tributary to Chattooga River
Timothy Creek	Nbry	FW	The entire creek tributary to Bush River
Tinker Creek	Unin	FW	The entire creek tributary to Tyger River
Tinkers Creek	Cstr	FW	The entire creek tributary to Fishing Creek
Toby Creek	Brwl	FW	The entire creek tributary to Salkehatchie River
Todds Branch	Lctr	FW	The entire branch tributary to Little Lynches River
Tom Point Creek (also called McLeod Creek)	Chtn	ORW(SFH)	The entire creek tributary to North Edisto Wadmalaw River
Toms Creek <u>Toms Creek Branch</u>	Lxtn	FW	The entire creek <u>branch</u> tributary to Congaree River
Toms Creek	Rlnd	FW	That portion of the creek outside the boundary of the Congaree National Park
Toms Creek	Rlnd	ORW(FW)	That portion of the creek beginning at the boundary of the Congaree National Park to its confluence with Cedar Creek
Toogoodoo Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto Wadmalaw River
Toomer Creek	Chtn	SFH	The entire creek tributary to Wando River
Town Creek	Crke	FW	The entire creek tributary to Broad Creek
Town Creek	Krsh	FW	The entire creek tributary to Wateree Creek
Town Creek	Pkns	FW	The entire creek tributary to Twelvemile Creek
Town Creek	Gtwn	SB	That portion of the creek from its confluence with No Mans Friend Creek and Oyster Bay to its western confluence with Clambank Creek.
Town Creek	Gtwn	SFH	That portion of the creek from its western confluence with Clambake Creek to its eastern confluence with Clambake Creek
Town Creek	Gtwn	ORW(SFH)	That portion of the creek from its eastern confluence with Clambake Creek to North Inlet
Townes Creek	Ocne	TN	That portion of the creek from the confluence of West Fork and Crane Creek to Lake Cherokee
Townsend River	Chtn	ORW(SFH)	The entire river tributary to Frampton Inlet
Trenchards Inlet	Bfrt	SFH	The entire inlet tributary to the Atlantic Ocean
Tugaloo River	Ocne	FW	That portion of the river from Tugaloo Dam to Lake Hartwell
Turkey Creek	Brwl	FW	The entire creek tributary to Salkehatchie River
Turkey Creek	Cstr, York	FW	The entire creek tributary to Broad River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Turkey Creek	Edfd, Mcmk	FW	The entire creek tributary to Stevens Creek
Turkey Creek	Grwd	FW	The entire creek tributary to Saluda River
Turkey Creek	Smtr	FWsp	The entire creek tributary to Pocotaligo River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Turkey Creek (also called Turkey Quarter Creek)	Lctr	FW	The entire creek tributary to Cane Creek
Turpin Branch	Ocne	FW	The entire branch tributary to Chattooga River
Twelvemile Creek	Lxtn	FW	The entire creek tributary to Saluda River
Twelvemile Creek	Pkns	FW	The entire creek tributary to Lake Hartwell
Twentyfive Mile Creek	Krsh	FW	The entire creek tributary to Wateree River
Three and Twenty Creek	Andn	FW	The entire creek tributary to Lake Hartwell
Tyger River (Main Stem)	Nbry, Spbg, Unin	FW	The entire river tributary to Broad River
Unnamed Creek	Gnvl	FW	The unnamed creek which enters Reedy River on the west bank 1 1/4 miles below Conestee Lake
Unnamed Creek	Gnvl		See Langston Creek (Greenville County)
Unnamed Creek	Ocne	FW	The unnamed creek which enters Little River at Newry
Unnamed Creek Mill Creek	Unin	FW	The unnamed creek which originates in Jonesville and flows north-northeast to Mill Creek
Unnamed Creek Tributary to Beaverdam Creek	Gnvl	ORW(FW)	That portion of the creek from its headwaters, including the reservoir, to Secondary Road 22
Unnamed Creek Tributary to Beaverdam Creek	Gnvl	FW	That portion of the creek from Secondary Road 22 to Beaverdam Creek
Unnamed Creek to Mountain Creek	Gnvl	ORW(FW)	That portion of the creek from its headwaters, including Mountain Lake, to Mountain Creek
Unnamed Creek (Located near Altamont Forest Rd) Tributary to an Unnamed Tributary to Mountain Creek	Gnvl	FW	The entire creek
Unnamed Creek (FrippsIsland) Tributary to Fripps Inlet	Bfrt	SFH	The entire creek tributary to Fripps Inlet
Unnamed Creek (Old Island) Tributary to Fripps Inlet	Bfrt	SFH	The entire creek tributary to Fripps Inlet

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Unnamed Creek (St. Helena Island) Tributary to Harbor River	Bftr	SFH	The entire creek tributary to Harbor River
Unnamed Creek (Harbor River) Tributary to St. Helena Sound	Bftr	SFH	The entire creek tributary to St. Helena Sound
Unnamed Creeks, Ponds, or Lakes	Rlnd	FW	Any portions tributary to waters unnamed or named located within the boundary of the Congaree National Park to the boundary of the Congaree National Park
Unnamed Creeks, Ponds, or Lakes	Rlnd	ORW(FW)	All portions of waters and waters located wholly within the boundary of the Congaree National Park
Unnamed Swamp (Near North, S.C.)	Orbg	FWsp	The entire swamp tributary to North Fork Edisto River (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Vaughn Creek	Gnvl	ORW(FW)	The entire creek tributary to Lake Lanier
Waccamaw River	Gtwn, Hory	FWsp	That portion of the river from North Carolina line to its confluence with Thoroughfare Creek (D.O. not less than 4 mg/L, pH 5.0 – 8.5)
Waccamaw River	Gtwn	SA sp	That portion of the river from its confluence with Thoroughfare Creek to Winyah Bay (D.O. not less than 4 mg/L)
Wadmalaw River	Chtn	ORW(SFH)	The entire river from Wadmalaw Sound to North Edisto River
Wadmalaw Sound	Chtn	ORW(SFH)	The entire sound
Wagner Creek	Chtn	SFH	The entire creek tributary to Wando River
Walker Branch	Ffld	FW	The entire branch tributary to Big DutchmanCreek
Wando River	Bkly, Chtn	SFH	That portion from its headwaters to a point 2.5 miles north of its confluence with Cooper River
Wando River	Bkly, Chtn	SA	That portion from a point 2.5 miles north of its confluence with Cooper River to its confluence with Cooper River
Wapoo Creek	Chtn	SB	The entire creek tributary to Stono River
Ward Creek	Bftr	SFH	The entire creek tributary to Harbor River
Warrior Creek	Lrns	FW	The entire creek tributary to Enoree River
Wateree Lake	Ffld, Krsh, Lctr	FW	The entire lake on Catawba-Wateree River
Wateree River	Cstr, Ffld, Krsh, Lctr, Rlnd, Smtr, York	FW	See Catawba-Wateree
Watts Mill Branch	Lrns	FW	The entire branch tributary to Little River

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
West Branch Cooper River	Bkly	FW	The entire river from Biggin Creek to its confluence with East Branch Cooper River (the Tee)
West Fork (also called Little Fork Creek)	Cfld	FW	The entire stream tributary to East Fork or Fork Creek
West Fork	Ocne	TN	That portion from its headwaters to its confluence with Crane Creek
Westbank Creek	Chtn	ORW(SFH)	The entire creek tributary to North Edisto River
Weston Lake	Rlnd	ORW(FW)	The entire lake within the boundary of the Congaree National Park
Whale Branch	Bfrt	SFH	The entire branch between Broad River and Coosaw River
Whetstone Creek	Ocne	TN	The entire creek tributary to Chattooga River
White Oak Creek	Krsh	FW	The entire creek tributary to Wateree Lake
White Oak Creek	Marn	FWsp	The entire creek tributary to Pee Dee River <u>Swamp of Little Pee Dee River</u> (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
White Oak Creek	Ocne	TN	That portion of the creek from its headwaters to Knox Creek
Whitewater River	Ocne	ORW(TPGT)	That portion of the river from State line to Lake Jocassee
Whitner Creek	Andn	FW	The entire creek tributary to Big Generostee Creek
Whooping Island Creek	Chtn	ORW(SFH)	The entire creek tributary to Steamboat <u>Sand</u> Creek
Wildcat Creek	Rlnd	FW	The entire creek tributary to Gills Creek
Wildcat Creek	York	FW	The entire creek tributary to Fishing Creek
Wilkerson Creek	Aikn	FW	The entire creek tributary to Horse Creek
Willis Creek	Pkns	ORW(FW)	That portion of the creek from its headwaters to the northern boundary of Table Rock Resort property
Willis Creek	Pkns	TN	That portion of the creek from the northern boundary of Table Rock Resort property to its confluence with Oolenoy River
Willow Swamp	Orbg	FWsp	The entire swamp tributary to South Fork Edisto <u>Little</u> River (D.O. not less than 4 mg/4L, pH 5.0 – 8.5)
Wilson Branch	Abvl, Andn	FW	The entire branch tributary to Rocky River
Wilson Branch	Gnvl	FW	The entire branch tributary to Durbin Creek
Wilson Creek	Gnwd	FW	The entire creek tributary to Saluda River
Windy Hill Creek	Bmbg, Brwl	FW	The entire creek tributary to South Fork Edisto River
Winyah Bay	Gtwn	SB	The entire bay tributary to the Atlantic Ocean
Wise Lake	Rlnd	ORW(FW)	The entire lake within the boundary of the Congaree National Park
Wolf Creek	Pkns	FW	The entire creek tributary to Twelvemile Creek

Waterbody Name	County(ies)	Class	Waterbody Description and (Site-Specific Standard)
Wood Creek	Gtwn	ORW(SFH)	The entire creek between Boor Creek and Jones Creek
Wright Creek	Ocne	ORW(TPGT)	The entire creek tributary to Lake Jocassee
Wright River	Jspr	SA	The entire river tributary to the Atlantic Ocean
Zekial Creek	Chke, Spbg	FW	That portion of the creek from its headwaters to its intersection with S.C. Hwy 110 <u>The entire creek tributary to Island Creek</u>

ATTACHMENT B

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-69, Classified Waters. Interested persons may submit comment(s) on the proposed amendment to Andrew Edwards, Water Quality Standards Coordinator of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; edwardaj@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on March 25, 2019, the close of the draft comment period.

Synopsis:

Section 303(c)(2)(B) of the federal Clean Water Act (“CWA”) requires South Carolina’s water quality standards be reviewed and revised, where necessary, at least once every three years. The Department proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions.

The Department may also include stylistic changes, such as corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation.

General Assembly review is required.

(x) ACTION/DECISION
() INFORMATION

Date: August 8, 2019

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

From: Bureau of Water

Re: **Notice of Proposed Regulation Amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*.**

I. Introduction

The Bureau of Water ("Bureau") proposes the attached Notice of Proposed Regulation amending R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, for publication in the August 23, 2019, *South Carolina State Register* ("State Register"). 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. Since the above referenced statutory provisions added and removed requirements currently contained in the R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, the regulations should be amended to reflect these changes.

2. 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.

3. The Department had a Notice of Drafting published in the February 22, 2019, *State Register*. A copy of the Notice of Drafting appears herein as Attachment B. The Department received no public comments by the March 25, 2019, close of the public comment period.

4. The Bureau held two stakeholder meetings on March 28, 2019. Stakeholders provided comments and suggestions regarding the proposed changes to the regulation.

5. Appropriate Department staff conducted an internal review of the proposed amendments on April 2, 2019.

III. Request for Approval

The Bureau of Water respectfully requests the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 23, 2019, *State Register*.



Dr. Michael Marcus
Bureau Chief



Myra Reece
Director

Attachments:

- A. Notice of Proposed Regulation
- B. Notice of Drafting published in the February 22, 2019, *State Register*

ATTACHMENT A

STATE REGISTER NOTICE OF PROPOSED REGULATION FOR R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*

August 8, 2019

Document No. _____

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.

Preamble:

The Department of Health and Environmental Control ("Department") proposes amending 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 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. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

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

Section-by-Section Discussion of Proposed Amendments:

Part 50 - general definitions, adding, deleting, updating, clarifying, deleted codification throughout the definitions.

Part 100

Section 100.10 – amended title and language through out for clarity and consistency.

Section 100.20 – recodified to reflect proposed changes. Amended for clarity and consistency.

Section 100.30 – amended for clarity and consistency.

Section 100.40 – recodified to reflect proposed amendments and removed references to repealed regulations.

Section 100.50 – amended for clarity and consistency.

Section 100.60 – amended method and time requirements of public notice. Amended public hearing requirement. Amended for clarity and consistency.

Section 100.70 – recodified to reflect proposed changes. Amended for clarity and consistency and removed variability of setbacks for consistency throughout the regulations.

Section 100.80 – recodified to reflect proposed changes. Re-organized for clarity and consistency.
Section 100.90 – amended for clarity and consistency.
Section 100.100 – amended for clarity and consistency. Added language for ease of use. Amended for clarity and consistency and removed variability of setbacks for consistency throughout the regulations.
Section 100.110 – amended for clarity and consistency.
Section 100.120 – amended for clarity and consistency.
Section 100.130 – added language for phasing out option for burial. Amended for clarity.
Section 100.140 – amended for clarity and consistency. Relocated 100.140.J to 100.100.B.23 for clarity and consistency.
Section 100.150 – removed limitations of odor interpretation. Amended for clarity and consistency. Recodified.
Section 100.160 – amended for clarity and consistency.
Section 100.170 – amended for clarity.
Section 100.180 – amended for consistency.
Section 100.190 – amended for clarity, consistency and content.
Section 100.200 – amended for consistency.
Section 200.10 – amended for clarity, consistency and content.
Section 200.20 – amended for consistency.
Section 200.30 – amended for clarity.
Section 200.40 – content removed due to statute. Amended for content and consistency. Recodified.
Section 200.50 – amended for clarity, consistency and content.
Section 200.60 – amended for clarity, consistency and content. Amended for cost savings.
Section 200.70 – amended due to statute. Amended for clarity, consistency and content.
Section 200.80 – amended for clarity, consistency and content. Removed due to statute. Recodified.
Section 200.90 – amended for clarity, consistency and content.
Section 200.100 – amended for clarity, consistency and content.
Section 200.110 – amended for clarity.
Section 200.120 – amended for clarity and content.
Section 200.130 – amended for clarity and content. Recodified.
Section 200.140 – amended for consistency. Relocated 200.140.J to 200.100.B.23 for consistency.
Section 200.150 – amended for clarity, consistency and content. Recodified.
Section 200.160 – amended for clarity, consistency and content.
Section 200.180 – amended for consistency.
Section 200.190 – amended due to statute. Amended clarity and consistency.
Section 300.30 – amended for consistency.
Section 300.40 – amended for clarity, consistency and content.
Section 300.50 – amended for clarity and consistency.
Section 400.10 – amended for clarity, consistency and content.
Section 400.20 – amended for clarity and consistency.
Section 400.30 – amended due to regulation no longer exist. Amended for content. Recodified.
Section 400.40 – amended for clarity, consistency and content.
Section 400.50 – amended for clarity, consistency and cost savings.
Section 400.60 – amended for clarity, consistency and content. Recodified.
Section 400.70 – amended for consistency.
Section 400.80 – amended for clarity, consistency and content. Recodified.
Section 400.90 – amended for clarity and consistency.
Section 400.100 – amended for clarity, consistency and content.
Section 400.110 – amended for consistency.
Section 400.120 – amended for consistency and content. Recodified.
Section 500.10 – amended for content.
Section 500.20 – amended for content. Recodified.

Section 500.50 – amended for consistency and content.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendment to Chuck Williams of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; williacj@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on September 23, 2019, the close of the comment period. Comments received during the write-in public comment period by the deadline set forth above will be submitted to the S.C. Board of Health and Environmental Control (“Board”) in a Summary of Public Comments and Department Responses for the Board’s consideration at the public hearing.

The Board will conduct a public hearing on the proposed amendments during its August 8, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

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

Preliminary Fiscal Impact Statement

The proposed 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 proposes amending 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.

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 proposed amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department proposes amending R.61-43 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 the R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*, the regulation should be amended to reflect these changes. The Department 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.

The proposed 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 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.

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 proposed 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 proposes amending 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.

Text:

~~Indicates Matter Stricken~~

Indicates New Matter

61-43. Standards for the Permitting of Agricultural Animal Facilities.

Statutory Authority: 1976 Code Sections ~~48-1-30, 47-20-40, 47-20-60, and 47-20-160 et seq.~~ 44-1-60, 44-1-65, 46-45-80, and 48-1-10 et seq.

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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) 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) 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 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 based on agronomic rates.

“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, owner, of an animal facility or manure utilization area, has taken and received certification from passing a class 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, 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.

—U: “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.

—V: “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.

—W: “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” refers to virtual three-dimensional coordinates placed off site where the concentrations of emissions would be measured for comparison to air quality standards.

—X: “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.

—Y: “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).

—Z: “EPA” means the United States Environmental Protection Agency.

“Evergreen Buffer” means trees that have foliage remaining green and functional through at least more than one growing season and are not considered deciduous.

—AA:“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.

—BB:“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.

—CC:“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 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 (1) percent 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 tobacco.

“Footprint” means the area of ground covered by an agricultural facility, i.e., the part of the property that the animal facility is constructed on.

“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 and is 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.

“Manure Application Rate” means managing manure to optimize its beneficial returns while minimizing its potential environmental impact by land applying at agronomic rates.

—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) 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 a section of land approved by the Department designated to handle 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.

“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.

“Operator” means the person(s) that manages a permitted animal facility or may be CAMM certified.

“Owner” means the owner or operator of any facility of activity subject to regulations under R.61-43.

—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) 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 are 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” ismmeans 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” ismmeans a person who, by reason of his 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 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” ismmeans 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 prevent 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 started over 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.

~~—III.~~“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.

~~—JJJ.~~“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, ~~milling 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) 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 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 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, 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.

~~—TTT:~~“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 100SWINE FACILITIES

100.10. Purpose, Applicability, Inactive Facilities, and Facilities Permitted Prior to the Effective Date of 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 regulations neither interfere with nor restrict 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~~. 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 ~~closed~~inactive for more than five (5) years, the ~~permit is considered expired and the producer shall apply for a new permit and all requirements under this part of R.61-43~~ shall be met before the facility can resume operations. 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 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 Requirement); Section 100.120 A,C, and D (Frequency of Monitoring for Swine Manure); Section 100.130 A,B, C item 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 100.210 (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 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 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 Pollution Control Act and 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 regulations proposes to convert to a swine facility, it shall be considered a new swine facility under 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 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.~~

~~B.~~ Permits issued under this regulation are no-discharge permits.

~~D.~~ 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.

~~E.~~ The requirements under this part may be addressed in permits issued to producers who only land apply swine manure and other swine by-products.

F. 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) 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) 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.F.3 and 100.20.F.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.F.2-3 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).

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 area is~~ are added, or ~~it is~~ 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 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 ~~deare~~ do not produce ~~classified~~ 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~~are 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 preliminary site inspection shall be made using a form, as designated 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 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, or S.C. registered professional geologists (PG), etc., 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, 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) P₂O₅

(f) K₂O (potash).

ii. Constituents.

(a) Copper.

(b) Zinc.

iii. Name, address, SC lab certification number, and telephone number of the laboratory conducting the analyses.

iiiiv. 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, 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 waterbody~~;

(e) Swine manure utilization area boundaries and buffer zones;

(f) 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 Plats, Surveys, 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, 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 applicer;

(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.

~~i. 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 handling and disposal of dead swine. Plans should include method of disposal, any construction specifications necessary, and management practices. See Section 100.130 for specific requirements on dead swine disposal.

7. A Soil Monitoring Plan. ~~A soil monitoring plan~~ shall be developed for all manure utilization areas. ~~See~~ 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.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 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 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 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 e~~Class 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 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 the Department receives twenty (20) or more letters or emails from different people 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 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 (5280 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) 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) 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's~~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 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 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 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 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 written ~~authorization~~Approval to ~~begin operations~~Operate (ATO).

~~L.K.~~ To receive ~~an authorization to begin operations~~ 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 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 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 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 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-year extension periods per permit to construct, granted.

~~P-Q.~~ 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 (5) 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 180 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.

~~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 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 and 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 and 1,000 feet from the nearest residence, ~~whichever is greater.~~

~~14-10.~~ The distances in items ~~10-13~~ 8 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 five hundred (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 items 9-11 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.9-11 7 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 (3/4 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.

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 regulations and the 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 for manure, wastewater, normal precipitation less evaporation, normal runoff, 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 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. 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 5×10^{-7} cm/sec. Geomembrane liners, at a minimum, shall meet NRCS-CPS. When 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 two (2) feet. If a geomembrane liner is installed, then 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. 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 two (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)~~ 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, 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 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 twenty-five (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 twenty-five (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 (10) percent 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~~ 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) 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 twelve (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-per/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 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.

c. Description of application equipment and name of person to land apply manure;

d. Signed agreement that informs the land owner that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with these regulations; 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 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 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 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, 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 twelve (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 the regulations. 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) 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 their facility, changes brokers, he 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 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 (MUA) for small, large and X-large swine facilities.

1. Siting Requirements applicable to all manure utilization areas associated with small 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 (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 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).~~

~~_____c. 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 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 subsurface injection at a depth of not less than six inches.

C. Manure utilization area slopes shall not exceed ten (10) percent unless approved by the Department. The Department may require that slopes be less than ten (10)% percent 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 ~~landapplied 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.

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 Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen), P_2O_5 , and K_2O .

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. (For existing facilities permitted prior to January 2020 with a burial site approved by the Department) Facility permits issued after January 2020 or permitted facilities prior to January 2020 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal.

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 two (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 (six (6) inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site shall be properly capped (minimum two (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 (BAQ); and~~

c. The incinerator shall not exceed an opacity limit of ten (10) percent.

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 state approved source water protection area.

2. 303(d) Impaired ~~Water bodies~~ Waterbodies 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 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 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~~al~~ or disposal~~al~~ of odorous materials;
2. Methods in handling and storage of odorous materials that minimize emissions;
 - a. Drying to a moisture content of fifty (50)% percent or less;
 - b. Solids S~~s~~eparation from liquid manure, and composting of solids;
 - c. Use Disinfection to kill microorganisms present in manure;
 - d. Aeration~~g~~ 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 (25)%~~ to ~~forty (40)%~~ percent 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 twenty-five (25) feet of the toe of the dike.);
 - k. Incorporation of manure and other swine by-products immediately after land application;
 - 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 timeframe 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 Bbest 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, 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 a 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 a ~~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 100.24000.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 48-1-320 and 48-1-330 of the Code.

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 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 regulations neither interfere with nor restrict 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 R.61-43 shall be met before the facility can resume operations. 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 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 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 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 timeframe 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 Pollution Control Act and 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 (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 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 ~~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) 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) 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 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 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 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.~~

~~BA.~~ Application and annual operating fees are addressed in Regulation R.61-30.

~~CB.~~ The proper closeouts of wastewater treatment facilities are addressed in Regulation R.61-82. 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.

~~FD.~~ Permits for air emissions from incinerators are ~~contained~~ addressed in Regulation R.61-62.

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in Regulation R.61-107.25819.

~~HE.~~ Disposal of animal manure with domestic or industrial sludge is addressed in Regulation R.61-9 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 Certification is addressed in Regulation R.61-81.

~~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 preliminary site inspection shall be made using a form, as designated 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 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 personnel or a S.C. registered professional engineer (PE). Other qualified individuals, such as certified soil scientists, SC registered professional geologists (PG), etc., 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, and telephone number (if different from above);
 - d. Operator's name and CAMM number;
 - 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) P₂O₅.

(f) K₂O (potash).

ii. Constituents.

(a) Arsenic.

(b) Copper.

(c) Zinc.

iii. Name, address, SC 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) P₂O₅ (mg/kg).

(e) K₂O (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, S₂C₂ 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 ~~waswere~~ 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) Right-of-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 Plats, 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 applicer;

(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 R.61-43.

~~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 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 ~~enarround~~ the perimeter of the property or in close proximity to the property, in locations visible to the public within the public right of ways ~~locationsto the public~~ 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 enaround the perimeter of the property or in close proximity to the property, in locations visible locations- 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 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 email~~, the Department shall acknowledge receipt of the comment by ~~electronic mail 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 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.~~ 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~~ 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 180 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) 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.L 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 extensions 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 ~~and~~ 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~~ a 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.~~

~~32. 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.~~

43. 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.

54. 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.

65. 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.~~

76. 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.~~ F. 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 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~~ fifty (50) year-~~twenty-four (24)~~ hour storm event (precipitation and associated runoff) and at least ~~one and one-half (1 ½)~~ two (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 two (2) feet. If a geomembrane liner is installed, the minimum separation distance is one 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, 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 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 twenty-five (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 twenty-five (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 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 (10) percent 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			
	(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 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, ~~these~~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 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 departmental concurrence.

9. Soil sampling (usually six to eight (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) 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 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 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 which 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 land owner that he is responsible and liable for land applying the animal manure and other animal by-products in accordance with these regulations; 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/applier of their responsibility and to 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 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 twelve (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 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) 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. 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 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 Producers 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 applier, 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 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 (10) percent unless approved by the Department. The Department may require that slopes be less than ten (10)% percent 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 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, Aa 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_2O_5 , and K_2O .

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. (For existing facilities permitted prior to January 2020 with a burial site approved by the Department) Facility permits issued after January 2020 or permitted facilities prior to January 2020 without an approved burial site from the Department must find an alternate method for daily and emergency dead animal disposal.

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 two (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 (six (6) inches per day minimum) to prohibit exhumation by feral animals.

8. When full, the burial site should be properly capped (minimum two (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 (BAQ); and

c. The incinerator shall not exceed an opacity limit of ten (10)% percent.

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- 107.258~~ 19.

F. Disposal of animal carcasses or body parts into manure lagoons, ~~manure~~-treatment systems, ~~manure~~ storage ponds, waters of the ~~S~~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.

~~GH.~~ 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 (50) percent or less;

b. Solids separation from liquid manure, and composting of solids;

~~b~~c. Disinfection to kill microorganisms present in manure;

~~c~~d. Aeration manure;

~~d~~e. Composting of solid manure and other animal by-products; and/or

~~e~~f. Odor ~~C~~ontrol 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~~ 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 (25)% to forty (40)%~~ percent 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 swine 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 applicator 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
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~~gGroundwater 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~~ Certification 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 48-1-320 and 48-1-330 of the Code.

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/anacrobic 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 ~~e~~Exceptional ~~q~~Quality ~~e~~Compost. Exceptional ~~q~~Quality ~~e~~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 composter 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 qQuality 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 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.~~

400.10. 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 location 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 regulations neither interfere with nor restrict 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 applicators 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 applicators.

7. If a manure broker/land applicator 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 applicator operation shall be permitted under the provisions of this part before the broker/land applicator 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 applicator 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.~~

~~B. Application and annual operating fees are addressed in Regulation R.61-30.~~

~~C. The proper closeouts of wastewater treatment facilities are addressed in Regulation R.61-82. 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~~.

~~FD.~~ Permits for air emissions from incinerators are contained in ~~Regulation R.61-62~~.

~~GE.~~ Disposal of animal manure in a municipal solid waste landfill unit is addressed in ~~Regulation R.61-107.25819~~.

~~HF.~~ Disposal of animal manure with domestic or industrial sludge is addressed in ~~Regulation R.61-9~~ and permitted under ~~R.61-9~~.

~~IG.~~ Procedures for contested cases are addressed in ~~Regulation R.61-72~~ and the Rules of the State's Administrative Law Judge ~~Court Division~~.

~~JG.~~ Laboratory Certification is addressed in ~~Regulation R.61-81~~.

~~KH.~~ 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 broker/land applier~~dry animal manure brokering operation or expand an existing operation~~ 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 as designated 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 geologist. 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.

c. 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 ~~T~~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 ~~broker~~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.~~ 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 S.C. Administrative Procedures Act, Regulation 61-72, and the Rules of the State's Administrative Law Judge Court 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 years. However, subsequent to the issuance of a permit, if the broker/land applier operation is not in operation or production for two 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.

~~IH.~~ 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 120 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.

~~H~~I. The Department shall review all broker/land applier operation records for permit renewal at the time of application. ~~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.

~~K~~J. 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~~ ATO.

~~L~~K. For manure brokers/land appliers who do not have any constructed facilities associated with their operations, the Department shall issue an permit approval 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.

~~M~~L. 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.

~~N~~M. 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).

~~O~~N. 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. 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.

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) 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_2O_5 (mg/kg).

(e) K_2O (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 Plant Available Nitrogen, Phosphorus, and 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;

~~c~~d. 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 (Nitrogen, Phosphorus, and Potassium in pounds per acre as reported on a soil test).

~~d~~e. 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 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 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 contains fly larvae and fly pupae shall be disked into the ground immediately or be 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 Applicators and other manure transporters shall use all sanitary precautions in the collection, storage, transportation, and spreading of ~~manure~~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 ~~400~~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 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 state approved source water protection 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. When the Department determines that a nuisance exists, the broker/land applicator 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 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 (50) percent 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 Odor Control Additives.
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 applier 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 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 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. 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 applier, 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~~anure 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 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 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.

~~F.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.

~~G.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 31st 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 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. 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. ~~The Department shall allow a grace period of at least one year for existing unpermitted farms.~~

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.

ATTACHMENT B

(Insert a copy of the Notice of Drafting published in the *State Register*.)

**BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
SUMMARY SHEET**

August 8, 2019

(X) ACTION
() INFORMATION

I. TITLE: Placement of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-Chloro- α -PVP in Schedule I for Controlled Substances.

II. SUBJECT: Request for Placement of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-Chloro- α -PVP in Schedule I Pursuant to S.C. Code Section 44-53-160(C).

III. FACTS:

1. Controlled substances are governed by the South Carolina Controlled Substances Act, Title 44, Chapter 53 of the South Carolina Code of Laws. Schedule I substances are listed in Section 44-53-190 of the South Carolina Code of Laws. Pursuant to South Carolina Code Section 44-53-160, titled "Manner in which changes in schedule of controlled substances shall be made," controlled substances are generally designated by the General Assembly upon recommendation by DHEC. South Carolina Code Section 44-53-160(C) provides a process for the Department to expeditiously designate a substance if the federal government has so designated.

2. South Carolina Code Section 44-53-160(C) states:

If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

3. The Acting Administrator of the federal Drug Enforcement Administration issued a temporary scheduling order in the *Federal Register* to schedule the synthetic cathinones, *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one); *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiophenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-*alpha*-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-

(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiophenone; trivial name: 4-chloro- α -PVP), and their optical, positional, and geometric isomers, salts, and salts of isomers in schedule I. Temporary scheduling allows the federal Drug Enforcement Administration to schedule a substance more quickly in order to avoid an imminent hazard to the public safety as defined in the federal Controlled Substances Act, 21 U.S.C. Section 811(h). A temporary scheduling expires after two years, except that the United States Attorney General may extend the temporary scheduling for up to one year during the pendency of proceedings to permanently schedule the substance, 21 U.S.C. Section 811(h)(2). The federal temporary scheduling order for these synthetic cathinones became effective July 18, 2019, in *Federal Register*, Volume 84, Number 138, pages 34291-34297; <https://www.govinfo.gov/content/pkg/FR-2019-07-18/pdf/2019-15184.pdf>.

IV. ANALYSIS:

1. The Acting Administrator of the federal Drug Enforcement Administration determined that the temporary scheduling of these synthetic cathinones in schedule I of the federal Controlled Substances Act was necessary to avoid an imminent hazard to the public safety, 21 U.S.C. Section 811(h). As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP. To make this determination, the Acting Administrator was required to consider the substances' history and current pattern of abuse; the scope, duration, and significance of abuse; and what, if any, risk there is to the public health, 21 U.S.C. Section 811(c). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution, 21 U.S.C. Section 811(h)(3).

2. History and Current Pattern of Abuse. *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are synthetic cathinones that have been identified in the United States' illicit drug market. Evidence indicates that these substances are being substituted for schedule I synthetic cathinones. Products containing synthetic cathinones have been falsely marketed as "research chemicals," "jewelry cleaner," "stain remover," "plant food or fertilizer," "insect repellants," or "bath salts." They have been sold at smoke shops, head shops, convenience stores, adult bookstores, and gas stations. They can also be purchased on the internet. These substances are commonly encountered in the form of powders, crystals, tablets, and capsules. Other encountered forms include resin, rock, liquid, and deposits on plant matter. Law enforcement has encountered *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in powder, crystal, resin, rock, capsule, or tablet forms. The packages of these commercial products usually contain the warning "not for human consumption," most likely in an effort to circumvent statutory restrictions for these substances. *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are likely to be abused in the same manner as schedule I synthetic cathinones such as methcathinone, mephedrone, methylone, pentylone, and MDPV. Information from published scientific studies indicate that the most common routes of administration for synthetic cathinones are nasal insufflation by snorting the powder and ingestion by swallowing capsules or tablets. The powder can also be injected or swallowed. Other methods of intake include rectal administration, ingestion by "bombing" (wrapping a dose of powder in a paper wrap and swallowing) and intramuscular injection.

3. Scope, Duration, and Significance of Abuse. Since 2009, the popularity of synthetic cathinones and their associated products has continued, as evidenced by law enforcement seizures, public health information, and media reports. As one synthetic cathinone is controlled, another unscheduled synthetic cathinone appears in the recreational drug market. *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are synthetic cathinones that have been identified in the United States' illicit drug market. Law

enforcement data indicate that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are being abused in the United States as recreational drugs. Additionally, encounters and seizures of these substances have occurred by the U.S. Customs and Border Protection at United States ports of entry. As observed by the federal Drug Enforcement Administration and U.S. Customs and Border Protection, synthetic cathinones originate from foreign sources, such as China. Bulk powder substances are smuggled via common carrier into the United States and find their way to clandestine designer drug product manufacturing operations located in residential neighborhoods, garages, warehouses, and other similar destinations throughout the country.

4. What if Any Risk to the Public. Available evidence on the overall public health risks associated with the use of synthetic cathinones suggests that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP can cause acute health problems leading to emergency department admissions, violent behaviors causing harm to self or others, or death. Acute adverse effects of synthetic cathinone substances are those typical of sympathomimetic agents (such as cocaine, methamphetamine, amphetamine) and include among other effects tachycardia, headache, palpitations, agitation, anxiety, mydriasis, tremor, fever or sweating, and hypertension. Other effects, with possible public health risk implications, that have been reported from the use of synthetic cathinone substances include psychological effects such as psychosis, paranoia, hallucinations, and agitation. α -PHP, 4-MEAP, MPHP, and PV8 have been associated with the overdoses or deaths of individuals. There have been documented reports of emergency department admissions or deaths associated with the abuse of α -PHP, 4-MEAP, MPHP, and PV8. Individuals under the influence of 4-MEAP and MPHP have acted violently or unpredictably causing harm, or even death, to themselves or others. Adverse effects associated with α -PHP, 4-MEAP, MPHP, and PV8 abuse included vomiting, agitation, paranoia, hypertension, unconsciousness, tachycardia, seizures, cardiac arrest, rhabdomyolysis, or death. No overdose information is currently available for *N*-ethylhexedrone and 4-chloro- α -PVP, but the pharmacological similarity of these substances to other currently controlled schedule I synthetic cathinones (such as methcathinone, mephedrone, methylene, pentylone, MDPV) suggests that these substances can also pose an imminent hazard to public safety.

V. RECOMMENDATION:


The Acting Administrator of the federal Drug Enforcement Administration determined that *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one; *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiophenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-*alpha*-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiophenone; trivial name: 4-chloro- α -PVP), and their optical, positional, and geometric isomers, salts, and salts of isomers meet the criteria for temporary placement in schedule I of the federal Controlled Substances Act because they have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use in treatment under medical supervision, and temporary scheduling was necessary to avoid an imminent hazard to the public safety. The Department recommends placing these substances in Schedule I in the same manner as the federal Drug Enforcement Administration.

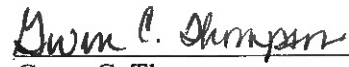
Pursuant to South Carolina Code Section 44-53-160(C), the Department recommends the placement of *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one; *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiophenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-

alpha-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiophenone; trivial name: 4-chloro- α -PVP) in schedule I for controlled substances in South Carolina and the amendment of Section 44-53-190(F) of the South Carolina Code of Laws to include:

- () *N*-Ethylhexedrone, its optical, positional, and geometric isomers, salts and salts of isomers (Other name: 2-(ethylamino)-1-phenylhexan-1-one);
- () *alpha*-Pyrrolidinohexanophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: α -PHP; *alpha*-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one);
- () 4-Methyl-*alpha*-ethylaminopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one);
- () 4'-Methyl-*alpha*-pyrrolidinohexiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MPHP; 4'-methyl-*alpha*-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one);
- () *alpha*-Pyrrolidinoheptaphenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one); and
- () 4'-Chloro-*alpha*-pyrrolidinovalerophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-chloro- α -PVP; 4'-chloro-*alpha*-pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one).

The Department recommends the Board place the synthetic cathinones, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-Chloro- α -PVP, in Schedule I of the South Carolina Controlled Substances Act.


Lisa Thomson
Chief
Bureau of Drug Control


Gwen C. Thompson
Interim Director
Health Regulation

Attachment:
Federal Register, Volume 84, Number 138, July 18, 2019

Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97:

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC on June 28, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14

CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

- 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

- 2. Part 97 is amended to read as follows:

Effective 15 August 2019

Soldotna, AK, Soldotna, VOR–A, Amdt 8
Hot Springs, AR, Memorial Field, ILS OR
LOC RWY 5, Amdt 16
Hot Springs, AR, Memorial Field, RNAV
(GPS) RWY 5, Amdt 2
Hot Springs, AR, Memorial Field, Takeoff
Minimums and Obstacle DP, Amdt 7
Hot Springs, AR, Memorial Field, VOR RWY
5, Amdt 5
Madera, CA, Madera Muni, RNAV (GPS)
RWY 12, Amdt 2
Madera, CA, Madera Muni, RNAV (GPS)
RWY 30, Amdt 2
Madera, CA, Madera Muni, Takeoff
Minimums and Obstacle DP, Amdt 5
Madera, CA, Madera Muni, VOR RWY 30,
Amdt 10, CANCELLED
South Lake Tahoe, CA, Lake Tahoe, LDA
RWY 18, Amdt 8
South Lake Tahoe, CA, Lake Tahoe, RNAV
(GPS) RWY 18, Amdt 1
Visalia, CA, Visalia Muni, ILS OR LOC RWY
30, Amdt 8
Visalia, CA, Visalia Muni, RNAV (GPS) RWY
12, Amdt 2
Visalia, CA, Visalia Muni, RNAV (GPS) RWY
30, Amdt 2
Visalia, CA, Visalia Muni, Takeoff Minimums
and Obstacle DP, Amdt 4
Visalia, CA, Visalia Muni, VOR RWY 12,
Amdt 7
Brooksville, FL, Brooksville–Tampa Bay Rgnl,
ILS OR LOC RWY 9, Amdt 3
Mount Carmel, IL, Mount Carmel Muni,
RNAV (GPS) RWY 4, Orig–B
Mount Carmel, IL, Mount Carmel Muni,
RNAV (GPS) RWY 22, Orig–A
Johnson, KS, Stanton County Muni, RNAV
(GPS) RWY 17, Amdt 2
Johnson, KS, Stanton County Muni, RNAV
(GPS) RWY 35, Amdt 2
Austin, MN, Austin Muni, RNAV (GPS) RWY
17, Amdt 2
Austin, MN, Austin Muni, RNAV (GPS) RWY
35, Amdt 2
Bemidji, MN, Bemidji Rgnl, ILS OR LOC
RWY 31, Amdt 6A

[FR Doc. 2019–15126 Filed 7–17–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–495]

Schedules of Controlled Substances: Temporary Placement of *N*- Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-Chloro- α -PVP in Schedule I

AGENCY: Drug Enforcement
Administration, Department of Justice.

ACTION: Temporary amendment;
temporary scheduling order.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration (DEA) is issuing this temporary scheduling order to schedule the synthetic cathinones, *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one; *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiofenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-*alpha*-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiofenone; trivial name: 4-chloro- α -PVP), and their optical, positional, and geometric isomers, salts, and salts of isomers in schedule I. This action is based on a finding by the Acting Administrator that the placement of these synthetic cathinones in schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, possess, import, export, research, or conduct instructional activities or chemical analysis), or propose to handle, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP.

DATES: This temporary scheduling order is effective July 18, 2019, until July 18, 2021. If this order is extended or made permanent, the DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Legal Authority**

Section 201 of the Controlled Substances Act (CSA), 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance permanently are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Attorney General may extend the temporary scheduling¹ for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1); 21 CFR part 1308. The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance in schedule I of the CSA.² The Acting Administrator transmitted notice of his intent to place *N*-ethylhexedrone; *alpha*-pyrrolidinohexanophenone (α -

PHP); 4-methyl-*alpha*-ethylaminopentiophenone (4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (MPHP); *alpha*-pyrrolidinoheptaphenone (PV8); and 4-chloro-*alpha*-pyrrolidinovalerophenone (4-chloro- α -PVP) in schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter dated March 9, 2018. The Assistant Secretary responded to this notice of intent by letter dated March 27, 2018, and advised that based on a review by the Food and Drug Administration (FDA), there were currently no approved new drug applications or active investigational new drug applications for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP. The Assistant Secretary also stated that the HHS had no objection to the temporary placement of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in schedule I of the CSA.

The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). *N*-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one; *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiophenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-*alpha*-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiophenone; trivial name: 4-chloro- α -PVP) in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent to temporarily schedule *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in the **Federal Register** on May 1, 2019 (84 FR 18423). That notice of intent identified the six substances using the common names; however, in

the three-factor analysis, which DEA made available on www.regulations.gov contemporaneously with the publication of the notice of intent, these same substances were identified using the International Union of Pure and Applied Chemistry (IUPAC) nomenclature. This temporary scheduling order provides the common names, as well as the IUPAC names, for all six substances.

To find that placing a substance temporarily in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP, summarized below, indicate that these synthetic cathinones have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis and the Assistant Secretary's March 27, 2018 letter are available in their entirety under the tab "Supporting Documents" of the public docket of this action at www.regulations.gov.

Synthetic Cathinones

Novel synthetic cathinones that mimic the biological effects of substances with stimulant-like effects continue to emerge in the illicit drug market. These novel cathinones, also known as designer drugs, are structurally similar to several drugs of abuse such as schedule I synthetic cathinones (e.g., methcathinone, mephedrone, methylone, pentylone, and 3,4-methylenedioxypyrovalerone (MDPV)). The illicit use of synthetic cathinones has continued throughout the United States, resulting in severe adverse effects, overdoses, and deaths. Indeed, hospital reports, scientific

¹ Though DEA has used the term "final order" with respect to temporary scheduling orders in the past, this document adheres to the statutory language of 21 U.S.C. 811(h), which refers to a "temporary scheduling order." No substantive change is intended.

² As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

publications, and/or law enforcement reports demonstrate that these types of substances are being abused for their psychoactive properties and they cause harm (see DEA 3-Factor Analysis). Recreational effects reported by abusers of synthetic cathinones include: Euphoria, sense of well-being, increased sociability, energy, empathy, increased alertness, improved concentration and focus. Adverse effects such as tachycardia, hypertension, rhabdomyolysis, hyponatremia, seizures, and altered mental status (paranoia, hallucinations, and delusions) have also been reported from the abuse of synthetic cathinones. Consequently, there are documented reports of emergency room admissions and deaths associated with the abuse of synthetic cathinone substances. With several generations of synthetic cathinones having been encountered since 2009, the abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP is impacting or will negatively impact communities.

Law enforcement data indicate that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP have appeared in the United States' illicit drug market (see DEA 3-Factor Analysis). Law enforcement encounters include those reported to the National Forensic Laboratory Information System (NFLIS), a DEA sponsored program that systematically collects drug identification results and associated information from drug cases analyzed by Federal, State, and local forensic laboratories. From January 2012 to September 24, 2018, NFLIS registered 1,131 drug exhibits pertaining to the trafficking, distribution and abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP. These exhibits had a net weight of approximately 18.7 kilograms³ and were encountered in powder, crystal, rock, resin, capsule and tablet forms.

As observed by the DEA and by the United States Customs and Border Protection (CBP), synthetic cathinones originate from foreign sources, such as China. Bulk powder substances are smuggled via common carrier into the United States and find their way to clandestine designer drug product manufacturing operations located in residential neighborhoods, garages, warehouses, and other similar destinations throughout the country. There have been encounters of *N*-ethylhexedrone, α -PHP, 4-MEAP,

MPHP, PV8, and 4-chloro- α -PVP by the CBP (see DEA 3-Factor Analysis).

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP have no accepted medical use in the United States. *N*-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP have been seized by law enforcement in the United States. The misuse of α -PHP, 4-MEAP, MPHP, and PV8 has been reported to result in adverse effects in humans in the United States. Although no overdose information is currently available for *N*-ethylhexedrone and 4-chloro- α -PVP, law enforcement seizures of these two substances and their pharmacological similarity to currently controlled schedule I synthetic cathinones (e.g., methcathinone, mephedrone, methylone, pentylone, MDPV) suggest that these two synthetic cathinones are likely to produce adverse effects similar to those produced by other synthetic cathinones.

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are synthetic cathinones that have pharmacological effects similar to schedule I synthetic cathinone substances such as methcathinone, mephedrone, methylone, pentylone, and MDPV and schedule II stimulants such as methamphetamine and cocaine. The misuse of α -PHP, 4-MEAP, MPHP, and PV8 has been associated with one or more overdoses with some requiring emergency medical intervention in the United States. With no approved medical use and limited safety or toxicological information, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP have emerged on the designer drug market, and the abuse or trafficking of these substances for their psychoactive properties is concerning.

Factor 4. History and Current Pattern of Abuse

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are synthetic cathinones that have been identified in the United States' illicit drug market. Evidence indicates that these substances are being substituted for schedule I synthetic cathinones. Products containing synthetic cathinones have been falsely marketed as "research chemicals," "jewelry cleaner," "stain remover," "plant food or fertilizer," "insect repellants," or "bath salts." They have been sold at smoke shops, head shops, convenience stores, adult bookstores, and gas stations. They can also be purchased on the internet. These substances are commonly encountered in the form of powders, crystals, tablets, and capsules. Other encountered forms include resin,

rock, liquid, and deposits on plant matter. Law enforcement has encountered *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in powder, crystal, resin, rock, capsule, or tablet forms. The packages of these commercial products usually contain the warning "not for human consumption," most likely in an effort to circumvent statutory restrictions for these substances.

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are likely to be abused in the same manner as schedule I synthetic cathinones such as methcathinone, mephedrone, methylone, pentylone, and MDPV. Information from published scientific studies indicate that the most common routes of administration for synthetic cathinones are nasal insufflation by snorting the powder and ingestion by swallowing capsules or tablets. The powder can also be injected or swallowed. Other methods of intake include rectal administration, ingestion by "bombing" (wrapping a dose of powder in a paper wrap and swallowing) and intramuscular injection.

Based upon the information collected from case reports, medical journals, and scientific publications including survey data, the main users of synthetic cathinones are youths and young adults. Given that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are newly emerging synthetic cathinones, it is likely that these substances will be used by the same population. This is consistent with data collected from the use of schedule I synthetic cathinones (e.g., mephedrone, methylone, pentylone, MDPV). According to Monitoring the Future (MTF) survey data,⁴ the 2017 annual prevalence rate of synthetic cathinone use was 0.6% for high school seniors and 0.3% for young adults (19–30 years). However, there was an 18 percentage point increase in the perceived risk of trying "bath salts" in young adults (aged 19–26 years).

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are likely to have duration of effects similar to those of schedule I synthetic cathinones because of their structural and pharmacological similarities. Users report (drug surveys, scientific and medical literature, etc.) that the effects of synthetic cathinones occur a few

³ Not all exhibits had weights recorded in the NFLIS database.

⁴ Monitoring the Future (MTF) is a research program conducted at the University of Michigan's Institute for Social Research under grants from NIDA. MTF tracks drug use trends among United States adolescents in the 8th, 10th, and 12th grades and high school graduates into adulthood by conducting national surveys.

minutes to 15 minutes after administration, depending on the synthetic cathinone and the route of administration (oral, insufflation, intravenous, *etc.*), and can last up to three hours.

Evidence indicated that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are ingested with other substances. This is likely to either heighten the effects or ameliorate the come-down effects of the synthetic cathinones. Co-ingestions can be from the ingestion of multiple products separately or a single product that is composed of multiple substances (*e.g.*, one tablet containing *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, 4-chloro- α -PVP, and other illicit substances). Indeed, law enforcement routinely encounters synthetic cathinone mixtures. Substances found in combination with *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, or 4-chloro- α -PVP are: Other synthetic cathinones (*e.g.*, MDPV, 4-chloromethcathinone, *N*-ethylpentylone, α -PVP), common cutting agents (*e.g.*, caffeine), or other substances of abuse (*e.g.*, methamphetamine, fentanyl, fentanyl analogues, carfentanil, benzodiazepines (*e.g.*, alprazolam), heroin, cocaine, synthetic cannabinoids, fluoroamphetamine, MDMA). Multiple drug use and potential co-ingestions are confirmed by forensic analysis of seized and purchased synthetic cathinone products.

Factor 5. Scope, Duration and Significance of Abuse

Since 2009, the popularity of synthetic cathinones and their associated products has continued, as evidenced by law enforcement seizures, public health information, and media reports. As one synthetic cathinone is controlled, another unscheduled synthetic cathinone appears in the recreational drug market. *N*-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are synthetic cathinones that have been identified in the United States' illicit drug market (*see* DEA 3-Factor Analysis for a full discussion).

Law enforcement data indicate that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are being abused in the United States as recreational drugs. While law enforcement data are not direct evidence of abuse, the data can infer that a drug has been diverted and abused.⁵ Forensic laboratories have confirmed the presence of these

substances in drug exhibits received from state, local, and federal law enforcement agencies. From January 2012 to September 24, 2018, there were 1,131 exhibits reported to NFLIS databases (Federal, State and local forensic laboratories) pertaining to the trafficking, distribution and abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP. These exhibits had a net weight of approximately 18.7 kilograms.⁶ These data also indicated that the abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP is widespread and has been encountered in many states since 2012 in the United States.

The following information details data obtained from the NFLIS database (queried on September 24, 2018), including dates of first encounter, exhibits/reports, and locations.

N-Ethylhexedrone: NFLIS—233 reports, first encountered in August 2016, locations include: Arizona, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wyoming.

α -PHP: NFLIS—395 reports, first encountered in May 2014, locations include: Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming.

4-MEAP: NFLIS—105 reports, first encountered in August 2013, locations include: Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Minnesota, New Hampshire, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, and Texas.

MPHP: NFLIS—71 reports, first encountered in June 2012, locations include: California, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Maine, Minnesota, Missouri, Nebraska, Nevada, New Jersey, Ohio, Pennsylvania, and Texas.

PV8: NFLIS—166 reports, first encountered in December 2013, locations include: Arizona, Connecticut, District of Columbia, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Nebraska, Nevada,

New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, and Wisconsin.

4-Chloro- α -PVP: NFLIS—160 reports, first encountered in December 2015, locations include: California, District of Columbia, Louisiana, Maryland, Arizona, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington.

Additionally, encounters/seizures of these substances have occurred by the CBP at United States ports of entry. As observed by the DEA and CBP, synthetic cathinones originate from foreign sources, such as China. Bulk powder substances are smuggled via common carrier into the United States and find their way to clandestine designer drug product manufacturing operations located in residential neighborhoods, garages, warehouses, and other similar destinations throughout the country. From 2014 to 2017, CBP encountered 73 shipments of products containing *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, or 4-chloro- α -PVP. Additional evidence indicates that some of these synthetic cathinones have been seized abroad. *N*-Ethylhexedrone and 4-chloro- α -PVP have been identified in seized materials in China and Poland, respectively. These data demonstrate that these substances are being trafficked and abused in the United States and abroad.

Concerns over the abuse of synthetic cathinone substances have led to the control of many synthetic cathinones. DEA controlled 13 synthetic cathinones: methylone, mephedrone, MDPV, 4-methyl-*N*-ethylcathinone (4-MEC), 4-methyl- α -pyrrolidinopropiophenone (4-MePPP), α -pyrrolidinopentiophenone (α -PVP), butylone (1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one), pentedrone (2-(methylamino)-1-phenylpentan-1-one), pentylone, 4-fluoro-*N*-methylcathinone (4-FMC), 3-fluoro-*N*-methylcathinone (3-FMC), naphyrone (1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one), and α -pyrrolidinobutiophenone (α -PBP) from 2011 to 2014 (October 21, 2011; 76 FR 65371 and March 7, 2014; 79 FR 12938). Recently, DEA controlled another synthetic cathinone, *N*-ethylpentylone (August, 31, 2018; 83 FR 44474), as a schedule I substance.

⁶ Not all exhibits had weights recorded in the NFLIS database.

⁵ See 76 FR 77330, 77332, Dec. 12, 2011.

Factor 6. What, if Any, Risk There Is to the Public Health

Available evidence on the overall public health risks associated with the use of synthetic cathinones suggests that *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP can cause acute health problems leading to emergency department (ED) admissions, violent behaviors causing harm to self or others, or death. Acute adverse effects of synthetic cathinone substances are those typical of sympathomimetic agents (e.g., cocaine, methamphetamine, amphetamine) and include among other effects tachycardia, headache, palpitations, agitation, anxiety, mydriasis, tremor, fever or sweating, and hypertension. Other effects, with possible public health risk implications, that have been reported from the use of synthetic cathinone substances include psychological effects such as psychosis, paranoia, hallucinations, and agitation.

α -PHP, 4-MEAP, MPHP, and PV8 have been associated with the overdoses or deaths of individuals. There have been documented reports of ED admissions or deaths associated with the abuse of α -PHP, 4-MEAP, MPHP, and PV8. Individuals under the influence of 4-MEAP and MPHP have acted violently or unpredictably causing harm, or even death, to themselves or others. Adverse effects associated with α -PHP, 4-MEAP, MPHP, and PV8 abuse included vomiting, agitation, paranoia, hypertension, unconsciousness, tachycardia, seizures, cardiac arrest, rhabdomyolysis, or death. No overdose information is currently available for *N*-ethylhexedrone and 4-chloro- α -PVP, but the pharmacological similarity of these substances to other currently controlled schedule I synthetic cathinones (e.g., methcathinone, mephedrone, methylone, pentylone, MDPV) suggests that these substances can also pose an imminent hazard to public safety.

It remains highly likely that additional cases of adverse health effects involving α -PHP, 4-MEAP, MPHP, and PV8 in the United States may have occurred and will continue to be under-reported as these substances, as well as *N*-ethylhexedrone and 4-chloro- α -PVP, are not part of standard panels for biological specimens. The pharmacological data for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP alone or combined with documented case reports, if any, demonstrate that the potential for fatal and non-fatal overdoses exists for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP; thus, these substances

pose an imminent hazard to the public health and safety.

As found with other synthetic cathinone substances, products containing synthetic cathinones often do not bear labeling information regarding the ingredients or the health risks and potential hazards associated with these products. The limited knowledge about product content and its purity, as well as lack of information about its effects, pose additional risks for significant adverse health effects to the users.

Based on pharmacological data or documented case reports of overdose fatalities, the misuse and abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP leads to the same qualitative public health risks as schedule I and II substances such as cathinone, methcathinone, mephedrone, methylone, pentylone, MDPV, methamphetamine, cocaine, and MDMA. α -PHP, MPHP, and PV8 have been associated with fatalities. As the data demonstrates, the potential for fatal and non-fatal overdoses exists for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP; thus, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP pose an imminent hazard to the public safety.

N-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are being encountered on the illicit drug market in the United States and have no accepted medical use in the United States. Regardless, these products continue to be easily available and abused by diverse populations.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the continued uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and/or abuse of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP, resulting from the lack of control of these substances, pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States,

and a lack of accepted safety for use under medical supervision. Available data and information for *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP indicate that these synthetic cathinones have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Acting Administrator, through a letter dated March 9, 2018, notified the Assistant Secretary of the DEA's intention to temporarily place *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in schedule I. DEA published a notice of intent in the **Federal Register** on May 1, 2019, 84 FR 18423.

Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Acting Administrator considered available data and information, and herein sets forth the grounds for his determination to temporarily schedule *N*-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one); *alpha*-pyrrolidinohexiophenone; trivial name: α -PHP); 4-methyl-*alpha*-ethylaminopentiophenone (trivial name: 4-MEAP); 4'-methyl-*alpha*-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-*alpha*-pyrrolidinohexanophenone; trivial name: MPHP); *alpha*-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial name: PV8); and 4'-chloro-*alpha*-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-*alpha*-pyrrolidinopentiophenone; trivial name: 4-chloro- α -PVP) in schedule I of the CSA, and finds that placement of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

Because the Acting Administrator hereby finds that it is necessary to temporarily place *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling these substances is effective on the date of publication in the **Federal Register**, and is in effect for a period of two years, with a possible extension of one additional year, pending completion of

the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done “on the record after opportunity for a hearing” conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this temporary order, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of July 18, 2019. Any person who currently handles *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP, and is not registered with the DEA, must submit an application for registration and may not continue to handle *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP as of July 18, 2019, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after

July 18, 2019 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must surrender all currently held quantities of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP.

3. *Security.* *N*-Ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP are subject to schedule I security requirements and must be handled and stored in accordance with 21 CFR 1301.71–1301.93, as of July 18, 2019.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must comply with 21 U.S.C. 825 and 958(e) and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from July 18, 2019, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP on the effective date of this order must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, 1317 and § 1307.11. Current DEA registrants authorized to handle *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must submit reports pursuant to 21 U.S.C.

827 and in accordance with 21 CFR 1304 and 1312 as of July 18, 2019.

8. *Order Forms.* All DEA registrants who distribute *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of July 18, 2019.

9. *Importation and Exportation.* All importation and exportation of *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of July 18, 2019.

10. *Quota.* Only DEA registered manufacturers may manufacture *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, and 4-chloro- α -PVP in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of July 18, 2019.

11. *Liability.* Any activity involving *N*-ethylhexedrone, α -PHP, 4-MEAP, MPHP, PV8, or 4-chloro- α -PVP not authorized by, or in violation of the CSA, occurring as of July 18, 2019, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this scheduling order. The specific language chosen by Congress indicates an intention for the DEA to proceed through the issuance of an *order* instead of proceeding by rulemaking. Given that Congress specifically requires the Attorney

General to follow rulemaking procedures for *other* kinds of scheduling actions, *see* section 201(a) of the CSA, 21 U.S.C. 811(a), it is noteworthy that, in section 201(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

In the alternative, even assuming that this action might be subject to section 553 of the APA, the Acting Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the CRA, “any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the federal agency promulgating the rule determines.” 5 U.S.C. 808(2). It is in the public interest to schedule these substances immediately to avoid an imminent hazard to the public safety. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the DEA’s need to

move quickly to place these substances in schedule I because they pose an imminent hazard to the public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraphs (h)(42) through (47) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(42) N-Ethylhexedrone, its optical, positional, and geometric isomers, salts and salts of isomers (Other name: 2-(ethylamino)-1-phenylhexan-1-one)	7246
(43) <i>alpha</i> -Pyrrolidinohexanophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: α -PHP; <i>alpha</i> -pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one)	7544
(44) 4-Methyl- <i>alpha</i> -ethylaminopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one)	7245
(45) 4'-Methyl- <i>alpha</i> -pyrrolidinohexiophenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MPHP; 4'-methyl- <i>alpha</i> -pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one)	7446
(46) <i>alpha</i> -Pyrrolidinoheptaphenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one)	7548
(47) 4'-Chloro- <i>alpha</i> -pyrrolidinoverphenone, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-chloro- α -PVP; 4'-chloro- <i>alpha</i> -pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one)	7443

Dated: July 10, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–15184 Filed 7–17–19; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0577]

RIN 1625–AA00

Safety Zone; Traverse City Ironman Triathlon, Traverse City, Michigan

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Captain of the Port, Sault Sainte Marie zone. This rule will provide a temporary safety zone to protect 2,400 participating swimmers in the Traverse City Ironman Triathlon. Entry of vessels into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Sault Sainte Marie.

DATES: This rule is effective from 6:15 a.m. through 9:45 a.m. on August 25, 2019.

ADDRESSES: To view documents mentioned in this preamble as being